



28 June 2024

Director
Corporate Conduct and Analysis Unit
Market Conduct and Digital Division
Treasury
Langton Cres
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Email: CCAU@treasury.gov.au

Dear Sir/Madam,

SMSF ASSOCIATION SUBMISSION – RESPONSE TO PWC: REGULATION OF ACCOUNTING, AUDITING AND CONSULTING FIRMS IN AUSTRALIA

The SMSF Association welcomes the opportunity to provide this submission in response to the Treasury consultation paper on the regulation of accounting, auditing and consulting firms in Australia.

We acknowledge the importance and weight of this consultation, recognising the important roles that large accounting, advisory and audit firms play in our financial markets, institutions and Government. The design of any legislative or regulatory frameworks which flow from this consultation must be designed with these markets and stakeholders in mind. We ask that Treasury take a careful and considered approach to ensure that the reach of such changes do not extend to the many small firms who operate in different markets and under different regulatory frameworks.

For example, approved SMSF auditors are highly regulated and operate in a co-regulatory environment under the Australian Taxation Office (ATO) and Australian Securities and Investment Commission (ASIC). All approved SMSF auditors must comply with the professional, ethical and independence standards prescribed in APES 110¹. The standards applicable to approved SMSF auditors are substantially more restrictive to those that apply to large firms undertaking audits of listed and other public interest entities.

SMSF Sector Overview

In considering the different regulatory environments that apply to SMSFs compared to listed and public interest entities, it is important to understand the SMSF population. SMSFs are heavily regulated, privately held entities.

Consideration must be given from the perspective of individual fund sizes, rather than looking at the total value of the sector. For the 2021-22 financial year, the average and median SMSF assets per

¹ Accounting Professional and Ethical Standards Board, *Code of Ethics for Professional Accountants (including Independence Standards)* (APES 110, June 2023).



SMSF were \$1,472,106 and \$834,514 respectively², 44 percent of SMSF members having balances between \$200,000 and \$1 million.³ Only 1.4 percent of SMSF members had balances exceeding \$5 million.⁴ Around 0.2 percent of SMSFs have total fund balances between \$20 and \$50 million, with less than 0.1 percent of SMSFs holding total fund balances in excess of \$50 million⁵.

These large funds are legacies of past policy settings and will progressively diminish over time as these members exit or pass away. On death, a member's balances must compulsorily leave the superannuation system. If legislated, the proposed Division 296 tax will likely accelerate the reduction or removal of funds from the superannuation system. Current policy settings have several mechanisms that restrict or prohibit the amounts contributed into the superannuation system.

Approved SMSF Auditors

The population of approved SMSF auditors provides access and choice for trustees. Importantly the number of approved SMSF auditors provides for a competitive market and as a result it is a healthy and robust sector.

In the 2021-22 financial year, there were 3,444 approved SMSF auditors⁶ overseeing a population of 585,696 SMSFs,⁷ representing 1,084,603 SMSF members.⁸

Most approved SMSF auditors operate in small and medium businesses, with very few approved SMSF auditors found in the larger Big-4 firms. While some auditors may provide SMSF audits out of a multi-service accounting practice, the sector is experiencing significant growth in SMSF specialist firms following the introduction of more stringent independent standards in 2020. .

Regulatory Environment - SMSF Audit

SMSF auditors operate in an effective, co-regulatory environment, with both the ATO and ASIC playing integral roles. The ATO review approved SMSF auditors through their various compliance programs and activities.

SMSF Auditor data is collected via the SMSF annual return. This along with other data enables risk profiling of SMSFs and approved SMSF auditors. Approved SMSF auditors also have compulsory reporting obligations to the ATO as regulator where compliance breaches may have occurred or where there is an event of a kind the ATO as regulator needs to be informed.

Where concerns arise with a particular auditor, there is the ability for SMSF trustees or other professionals, such as other auditors or accountants, to report the matter to the ATO.

All SMSFs are statutorily required to be audited every financial year by an SMSF approved Auditor.⁹ This entails an audit of the fund's financial statements, and the completion of a compliance audit.

² Australian Taxation Office, *SMSF Statistical Overview 2021-22*, Table 5. <https://data.gov.au/data/dataset/self-managed-superannuation-funds>

³ Ibid, Table 22.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid, Table 15.

⁷ Ibid, Table 1.

⁸ Ibid.

⁹ *Superannuation Industry (Supervision) Act 1993* (Cth) s 35C.



The audit can only be completed by an approved SMSF auditor who is registered with ASIC, having satisfied the requirements for registration.¹⁰

SMSF auditors must comply with any:

- (i) Competency standards that the Regulator determines; and
- (ii) Auditing standards, made by the Auditing and Assurance Standards Board under section 336 of the *Corporations Act 2001*, that are applicable to the duties of an approved SMSF auditor; and
- (iii) Auditing and assurance standards, formulated by the Auditing and Assurance Standards Board under section 227B of the *Australian Securities and Investments Commission Act 2001*, that are applicable to those duties.¹¹

Further, all approved SMSF auditors have a statutory obligation to comply with the auditor independence standards prescribed in APES 110.¹² The Joint Accounting Bodies may prescribe additional standards applicable to their members and provide additional guidance.¹³

The ATO strictly enforces the APES 110 independence standards and will not hesitate to refer an auditor to ASIC if they suspect there has been a breach of the auditor's obligations. ASIC has regularly shown it will terminate the registration of an SMSF auditor who does not comply with the independence standards.

APES 110 expressly prohibits an auditor from accepting an engagement in prescribed circumstances. Circumstances can also arise in which there are no safeguards that can be applied in practice to reduce independence threats to an acceptable level.

An auditor cannot audit an SMSF in any of the following circumstances:

- the auditor is a trustee or director of a corporate trustee or member of the fund (or both)
- an immediate family member (spouse or equivalent, or dependant) of the auditor is a trustee or director of a corporate trustee or member of the fund (or both)
- the auditor's firm (or network firm) has assumed a management responsibility for the fund
- the auditor, their staff, or their firm (or network firm) provides accounting or bookkeeping services to the fund (including preparing the financial statements).
- a sole practitioner (or their employees) provides accounting or bookkeeping services to the fund, even if the services are 'routine or mechanical'
- a partner of the auditor's firm (or network firm) is a trustee or director of a corporate trustee or member of the fund (or both)

¹⁰ Ibid, pt 16 div 1A sub-div A.

¹¹ Ibid, s 128F.

¹² *Superannuation Industry (Supervision) Regulations 1994* (Cth) r 9A.06.

¹³ Accounting Professional & Ethical Standards Board Limited, Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants, '8. Self-managed superannuation funds' in *Independence Guide* (5th Ed, May 2020) 79 – 97.



- the auditor has a close business relationship with a trustee or director of a corporate trustee or member of the fund (or both).
- the auditor is involved in a reciprocal auditing arrangement in which 2 auditors agree to audit each other's SMSF.

Other relationships, due to their nature, will give rise to independence threats. Here the auditor is required to assess and evaluate the threat to independence and take appropriate action to address, which may include not accepting the engagement. Examples include where an auditor:

- has a close family member who is a trustee or director of a corporate trustee or member of the fund (or both)
- has a close personal relationship with a trustee or director of a corporate trustee and or member of the fund.
- belongs to a firm that is reliant on one referral source for all or a large proportion of the firm's total fees, or the fees generated by the firm from an SMSF audit client represent a large proportion of the revenue of a partner or office of the firm.
- provides advice (such as financial, investment or taxation advice that goes beyond just preparation of the fund's tax return) to the trustee(s) of the fund being audited
- audits an SMSF client in circumstances where either they, their staff or their firm (including network firm) provide other non-assurance services to the fund
- enters into a reciprocal auditing arrangement whereby 2 auditors (who are also accountants) prepare the financial statements for a number of SMSFs and agree to audit each other's clients.

Any long-standing client arrangements must also be assessed when considering independence.

In meeting their obligations under the Australian Auditing Standards¹⁴ approved SMSF auditors must comply with the Australian Standards on Quality Management (ASQM). ASQM 1 addresses *Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements*. This standard 'deals with a firm's responsibilities to design, implement and operate a system of quality management for audits or reviews of financial reports and other financial information, or other assurance or related services engagements.'¹⁵

ASQM 1 requires the monitoring and evaluation of the system of quality management. This includes an at least annual review of at least one audit file.

The Joint Accounting Bodies as part of their ongoing quality review of members includes a review of the firm's policy and procedure manuals and their adoption and use in client engagements.

¹⁴ Auditing and Assurance Standards Board.

¹⁵ Auditing and Assurance Standards Board, *ASQM 1: Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements*.



Ultimately the auditor is responsible for the audit engagement. They must ensure that they and their team hold the required knowledge, experience and expertise to accept the engagement. The auditor is responsible for the planning of the audit, the supervision of staff and final review and sign-off of the audit report.

Prior to accepting any audit engagement, the approved SMSF auditor must undertake a review of their capacity and capability to undertake the audit alongside the prescribed ethical and independence obligations. These assessments must be documented and retained on the client file. If the necessary obligations and requirements can not be met, the auditor is required to decline the engagement.

ASQM 2 sets out the standards for engagement quality reviews. This audit standard requires an engagement quality reviewer (EQR) to be engaged if there is a specific issue on an engagement that requires review. An EQR might never be needed by an auditor. It will depend on the fund and the applicable circumstances. The annual review under ASQM 1 is required for every auditor.

Many approved SMSF auditors are incorporating independent reviews as part of their internal governance practices. Often this is over and above what is required under the audit standards. Practitioners are proactively seeking assurance that they are compliant, maintaining high standards and adopting best practices.

Conclusion

The audit of SMSFs and approved SMSF auditors is already sufficiently regulated, and policed. It is a competitive market and is not reliant on the large accounting or audit firms that are the focus of this consultation paper. Any additional regulation is not considered necessary or appropriate for this market segment.

We thank you again for the opportunity to provide this submission. If you have any questions about our submission, please do not hesitate to contact us.

Yours sincerely,

Peter Burgess
Chief Executive Officer

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial



professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.