

12 December 2018

Ms Elizabeth Williamson
Division Head, Consumer and Corporations Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: Elizabeth.Williamson@treasury.gov.au

CC: Adam Bogiatzis, Senior Adviser – Consumer and Corporations Policy Division, Treasury; (Adam.Bogiatzis@treasury.gov.au) and Doug Niven, Senior Executive Leader – Accountants and Auditors, ASIC (Douglas.Niven@asic.gov.au)

Dear Ms Williamson

Request to amend ASIC's fee for consent to resign as an auditor

We are writing to request that Treasury amend the [Corporations \(Fees\) Regulations 2001](#) (“the Regulations”) to reflect that no fee should be payable for an application for consent from ASIC to resign as an auditor of a public company (including companies limited by guarantee). We also request that auditors who have already paid the fee be reimbursed retrospectively. Until such time as the Regulations are amended an interim pragmatic solution would be, if it is discretionary, for ASIC not to charge the fee for auditor resignation applications.

Chartered Accountants ANZ represents over 121,000 members. We advocate in the interests of members and in the public interest. In preparing this letter we have consulted with our members and with Treasury's Adam Bogiatzis and ASIC's Doug Niven.

Paragraph 108 of ASIC's [Cost Recovery Implementation Statement \(CRIS\) – Fees for Service](#) refers to applications for relief being “charged a standard fee of \$3,487 unless a specific fee is prescribed for the chargeable matter.” Item 80 under [Schedule 1 – Fees](#) of the Regulations includes: “On application to ... ASIC for ... consent ... arising under ... a provision in Chapter ... 2M.” Chapter 2M of the [Corporations Act 2001](#) contains section 329(5) on resignation of auditors.

Auditor resignation fees (the fee for lodging Form 342) were not included in the consultation on the proposed industry funding model for ASIC. On 1 July 2018 the fee increased from \$39 to \$3,487, hence this is a significant and unexpected change. In our view the fee is excessive and has created unintended consequences, particularly for sole practitioners and small to medium sized entities. We therefore encourage Treasury to expedite consideration of this matter.

A very real implication of this fee is that when a sole practitioner passes away, the executor would have to make the resignation application, thereby exposing the auditor's estate to a potentially high liability, while the executor would not be able to provide ASIC with required information about the audit, which makes the application of no use.

Audit fees relative to resignation fees will now also be factored into the auditor's acceptance/continuance decision, as possible recovery of the resignation fee from the client becomes an additional consideration. This is likely to have a direct impact on small to medium sized entities, especially companies limited by guarantee, ability to appoint an auditor. This outcome is not in the public interest.

We are also concerned that the high application fees may actually deter an auditor from resigning from a client when they otherwise would have, especially in circumstances where a conflict of interest arises and/or there is a loss of auditor independence. It may also result in instances of circumvention – by way of example, auditors asking clients to remove them as auditor instead of them resigning.

We believe the auditor resignation application is more akin to a notification designed for ASIC's information gathering purposes, rather than 'relief'. There is minimal activity by ASIC connected to such an application, therefore it appears that the resources required for processing these applications does not justify the fee. To compare, the application for consent to remove a compliance plan auditor is zero where section 601HH(2) applies and only \$791 where section 601HH(1) applies. Requests to cancel or suspend registration as a liquidator is only \$234.

The Appendix provides information about Chartered Accountants Australia and New Zealand. If you would like to discuss the contents of this letter, please contact Gerrie Burger, Senior Policy Advocate at Gerrie.Burger@charteredaccountantsanz.com.

Yours sincerely



Simon Grant FCA

Group Executive, Advocacy and Professional Standing
Chartered Accountants Australia and New Zealand

Appendix

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand is a professional body comprised of over 121,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations.

We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation accounting professionals across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.