Accounting Infrastructure Reform Bill

(180–1)

Interim report of the Commerce Committee

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Accounting Infrastructure Reform Bill

Recommendation

The Commerce Committee is considering the Accounting Infrastructure Reform Bill, and recommends the House take note of its interim report.

Introduction

The bill continues the changes begun by the Financial Markets Conduct Act 2013 and the Financial Reporting Act 2013. It proposes amendments to the rules on who may perform statutory audits, to the restrictions on legal form for audit firms, to the requirement for independent assurance of financial statements for certain charities, and to the rules relating to how the New Zealand Institute of Chartered Accountants structures itself.

Yesterday we received a letter from the Minister of Commerce asking the committee to consider some issues that are not in the proposed legislation. The Minister points to two main weaknesses in the existing arrangement:

- The Registrar has no guidelines to apply when considering applications for approval. This creates a risk that the Registrar may approve a substandard body or individual.
- There are no ongoing requirements or checks on approved bodies and individuals. This creates a risk that a body approved in the past may no longer be suitable to regulate its New Zealand-based members, or an individual may have dropped below the desired standard, but remains approved.

In order to fully consider these issues, we intend to seek submissions on these points. Attached is the letter we received from the Minister.

Appendix A

Committee procedure

The Accounting Infrastructure Reform Bill was referred to the Commerce Committee on 28 January 2014.

Committee members

Jonathan Young (Chairperson)
Kanwaljit Singh Bakshi
Hon Clayton Cosgrove
Clare Curran
Kris Faafoi
Julie Anne Genter
Mark Mitchell
Hon Chris Tremain
Dr Jian Yang

Appendix B

Letter received from the Minister of Commerce

Office of Hon Craig Foss

MP for Tukituki

Minister of Commerce
Minister of Consumer Affairs

Minister of Broadcasting
Associate Minister for ACC

2 9 JAN 2014

Mr Jonathan Young
Chairperson
Commerce Committee
Parliament Buildings
WELLINGTON 6011

Dear Mr Jonathan Young

ACCOUNTING INFRASTRUCTURE REFORM BILL

The Accounting Infrastructure Reform Bill (AIR Bill) has now been referred to the Commerce Committee for consideration.

I would like to draw your attention to an additional issue that has been raised with me by stakeholders. It relates to the Registrar of Companies' role in approving overseas auditors and professional accounting bodies for the purposes of non-Financial Markets Conduct statutory audits, under section 36 of the Financial Reporting Act 2013. There are two main weaknesses in the existing arrangement:

- The Registrar has no guidelines to apply when considering applications for approval. This creates a risk that the Registrar may approve a substandard body or individual.

- There are no ongoing requirements or checks on approved bodies and individuals. This creates a risk that a body approved in the past is no longer suitable to regulate its New Zealand-based members, or an individual has dropped below the desired standard, but remains approved.

I believe it is important to retain the Registrar's role in approving overseas bodies and individuals, to ensure businesses can access specialist audit skills which may not otherwise be available in New Zealand. However, I believe the process for approval can be strengthened.

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I expect that submissions on the Bill from the New Zealand Institute of Chartered Accountants and Certified Practising Accountants Australia will reiterate their concerns on this issue. To ensure that all affected parties have an opportunity to comment, I would like to request that the Committee seek submissions on this issue and propose amendments to the AIR Bill which you consider will alleviate the issue. To focus respondents' submissions, you may wish to seek views on the suggestions in the attached draft proposal. My officials will be happy to provide a list of approved bodies and individuals if you wish to contact affected parties directly.

This issue is within scope of the AIR Bill. The Bill's purpose is to enable the accounting and audit industry to be more efficient and effective and it already amends rules on who may perform statutory audits. I believe a solution to this issue would largely involve amendments to section 36 of the Financial Reporting Act 2013 and additional provisions in that Act proposed in the AIR Bill.

Yours sincerely

Hon Craig Foss
Minister of Commerce

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Suggested solutions to weaknesses in the process to approve overseas auditors and professional bodies for non-FMC statutory audits

- Add a regulation making power to set criteria for the Registrar to apply in considering applications for 'approved' status. Criteria should ensure that overseas auditors meet the necessary level of competence, their work is overseen and their New Zealand clients have an avenue for complaints.
- Require the Registrar to maintain a list of approved bodies and individuals on its website.
- Allow the Registrar to place conditions on approvals of individuals, for example restricting the types of statutory audits an individual is approved to conduct.
- Create a regulation making power to enable the Registrar to charge a cost-recovery fee for applications and/or an annual fee for maintaining the list of approved auditors.
- Require approved bodies to 'recognise' members wishing to perform statutory audits in NZ – i.e. mirroring provisions in clause 30.
- Require an approved professional body to keep any recognition under review, publish a list of 'recognised' members on its website and to cancel or suspend recognition if the requirements are no longer satisfied – i.e. extend clause 31 (new sections 36C, 36G and 36J) to apply to approved associations.
- Require approved professional bodies and individuals to report regularly (we suggest biennially) to the Registrar in a prescribed form, demonstrating how they continue to comply with the approval criteria.
- Require a body or an individual to inform the Registrar if it discovered it was no longer compliant between reports – i.e. mirror clause 31 (new section 36E).
- Require the Registrar to suspend or cancel approval if the criteria are no longer met – i.e. mirror clause 31 (new section 36G).
- Allow professional bodies and individuals a right of appeal to the District Court if approval is denied, suspended or cancelled – i.e. mirror clause 31 (new section 36K).
- In the case of a professional body, suspension or cancellation would have the consequent effect of cancelling or suspending any recognition of auditors granted by the body, unless the Registrar explicitly authorises the auditor to continue to act – i.e. extend clause 31 (new section 36H and 36I) to approved associations.
- Extend the offence in clause 32 (new section 39B) to apply to people holding out that they are recognised by an approved professional body or are approved by the Registrar, if they are not.
- As transitional measures:
  - require approved individuals to reapply for approval, as many may no longer be practising.
  - grandfather existing approved bodies, but require their first report within a year.