

Waiting to be regulated

Professionals in the accounting arena are still waiting for the draft Bill that will specify how the government intends to regulate them in coming years despite earlier indications that legislation would be out last April.

Nobody within government ranks is prepared to offer a concrete release date for the draft Bill, which is understood to still be in the preliminary phase.

The Bill is still expected to contain much of the material contained within the ninth discussion paper on corporate law reform known as CLERP 9.

Senator Ian Campbell, the parliamentary secretary to the Treasurer, has indicated over the past six months in varying formats that a series measures will form a part of the legislative framework.

Nothing has changed since the Senator gave evidence before a parliamentary committee almost two months ago on the status of the efforts to draft the legislation.

Among the measures the Senator has flagged will be up for consideration is the formation of a panel to resolve accounting disputes between the corporate regulator and a company, fining powers for the Australian Securities and Investments Commission, the snatching from the accounting profession of the Auditing & Assurance Standards Board and the placement of the AuASB under the Financial Reporting Council.

The proposals in CLERP 9 expand the FRC's role of oversight to include reviews of the appropriateness of existing programs teaching business ethics as well as the monitoring of audit independence matters.

At least one accounting organisation is agitating publicly on the government's failure to release the draft Bill. The Association of Chartered Certified Accountants, one of the world's largest accounting bodies issued a media release in the past fortnight lampooning the government's lack of progress towards releasing the draft law.

"The ACCA has some thoughts for the government just in case a lack of good ideas is what's holding up the CLERP 9 legislation," the ACCA release states.

"While the legislation, which will change the nature of corporate regulation in Australia, is to be applauded, ACCA has some concerns about some of the proposals Senator the Hon. Ian Campbell has put forward in public leading up to the legislation being tabled in parliament."

The ACCA believes, for example, it is odd for a government to give a fining power to a regulator that relates to an entity allegedly breaching a code of practice such as the recommendations of the corporate governance council of the Australian Stock Exchange.

“The government is perfectly entitled to expect companies to observe an agreed code of best practice on corporate governance and to explain any instance of non-compliance with it,” Richard Francis, ACCA’s Australia and New Zealand head.

“But best practice guidance, by definition, does not have the force of law and the repercussions of non-compliance with individual guidance in the code should be left to the market”.

Another issue about which the ACCA expresses concerns is about the legislation of auditing standards and whether Australia will actually adopt the international standards of auditing as issued by the International Auditing & Assurance Standards Board (IAASB).

“The European Commission is currently studying a submission that is likely to require EU-listed companies to adhere to international auditing standards. Australian capital markets must not be left behind. In practice, this means Australian standards have to converge with international standards, ideally by 1 January 2005,” Francis states.

ACCA’s concerns on the auditing and assurance standards front coincide with the publication on the international audit standards body’s website of an agenda paper that proposes guidelines on how adoption of international auditing standards should take place in the jurisdictions that are members of the International Federation of Accountants.

The IAASB working paper – discussed at its most recent meeting – sets down what IAASB staff believe to be an effective means by which to eliminate differences between the various sets of auditing standards currently in existence.

Steps recommended by the IAASB’s staff, according to the background paper prepared for the five-day meeting held in the past fortnight, for effective convergence with international standards of auditing include:

- Alignment of work programs with that of the IAASB, subject to the work program of the IAASB being reflective of the issues identified as priorities by national standard setters,
- Allocation of staff and other resources so the national standard setters can, as agreed with the IAASB, lead projects on certain issues on the agenda of the IAASB and provide support on others,
- Full consideration of the views of the IAASB in their deliberations on issues,
- Issuance of IAASB discussion papers and exposure drafts, with minimum modifications dealing with national issues, for input from the constituents of the national standard setters,
- Work with the IAASB to remove incompatibilities between an existing or proposed ISA and the corresponding existing or proposed national standard, in situations where a national standard setter is of the view that the ISA is inappropriate in the national context, and,
- Accept the views of the IAASB, and the majority of other national standard setters, on an issue in question, where such acceptance will lead to international convergence on an issue, even though that view is not the preferred position of the

national standard setter, unless such acceptance is considered not to be in the best interests of the national economy.

While the IAASB staff express a view that converges with the international auditing literature there is also an acknowledgment later in the document that there may be circumstances where domestic audit standard setting authorities could add requirements to an international auditing standard.

“It should be noted that compliance with national standards (i.e. supplemented ISAs) should always constitute compliance with ISAs,” the background paper notes. “As a result, supplements cannot “lower” a requirement in an ISA, it can only “strengthen” it. In addition, supplements should be subject to the national standard setter’s due process.”

This article was supplied by Tom Ravlic. Tom Ravlic is a financial journalist who has spent the past seven years covering the accounting profession, accounting and audit standard setting and corporate governance. His work has appeared in various publications including *Business Review Weekly*, *Personal Investment* (now *Personal Investor*), *The Age*, *CFO Magazine*, the *Australian CPA*, the *Company Director Journal* and the newsletters of the internationally renowned Lafferty Group. In addition to his freelance commitment to a wide range of publications, Tom has recently accepted an appointment to be editor of *Chartac Accountancy News*, published by Melbourne-based publisher Crown Content.