

## Declaration of independence

A declaration has to be given by the auditor stating that the auditor has complied with the auditor independence requirements of the Corporation Act and the Corporate Regulations and of any applicable codes of professional conduct (Department of Treasury, 2003b, para.180). A copy of the declaration must be included in the annual directors' report (Department of Treasury, 2003b, para.183).

One issue the auditor must consider when giving this declaration is whether they have complied with the *General requirement for independence* (Department of Treasury, 2003b, paragraphs 134–145). The drafting of the general requirement is based upon CLERP 9 proposals and refinements recommended by the HIIHRC.

Under these provisions, an auditor is prohibited from auditing a client if a conflict of interest exists and the auditor does not take all reasonable steps to ensure the conflict of interest ceases to exist (Department of Treasury, 2003b, para.135). For situations where the auditor is not aware of the conflict of interest, the test for determining whether the auditor should be aware of the conflict of interest is

if the individual auditor, an audit firm or an audit company would have been aware of the existence of the conflict of interest situation if they had in place a quality control system reasonably capable of making them aware of the existence of such a conflict of interest (Department of Treasury, 2003b, para.136).

Auditors could be held criminally liable if they breach the above provisions (Department of Treasury, 2003b, para.137).

The draft Bill gives tests to determine if a conflict of interest exists. In effect, these tests form the definition of independence. This states that a conflict of interest could occur if circumstances exist that

impair, or might impair, the ability of the auditor...to exercise objective and impartial judgment in relation to the conduct of an audit... ; or

would give a person, with full knowledge of the facts and circumstances, reasonable grounds for concern that the ability of the auditor...to exercise objective and impartial judgment in relation to the conduct of the audit (Department of Treasury, 2003b, para. 139).

In framing the above standard of independence, the HIIHRC's recommendation was followed that any standard or definition should include the word *might* and allow for the possibility of the auditor not being *seen* to be independent. The discussion noted that the

HIIHRC considered that the difficulties in discerning any actual lack of independence, coupled with the reluctance on the part of auditors to confront their own lack of independence, supported the proposal in CLERP 9 for the introduction of an objective standard of independence (Department of Treasury, 2003b, para.141).

The inability to observe the audit process and determine if the auditor has independently collected evidence and reported in an independent manner leads to difficulties of discerning actual lack of auditor independence.

## **Reference**

Department of Treasury, 2003b, *CLERP (Audit Reform and Corporate Disclosure) Bill: Chapter 1, Audit Reform*, [www.treasury.gov.au](http://www.treasury.gov.au)