



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Auditor Independence) Instrument 2021/75

I, Grant Moodie delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 26 April 2021

Grant Moodie

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Auditor Independence) Instrument 2021/75*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 341(1) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

audit engagement team, in relation to an audit or review of a financial report of a relevant entity for a relevant period, means the persons performing work on the audit or review of the financial report of the relevant entity for the relevant period.

Code means the APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* as in force as at the date of this instrument.

control has the same meaning as in accounting standard AASB 10 *Consolidated financial statements*.

controlled entity, in relation to a relevant entity for a relevant period, means an entity controlled by the relevant entity during or since the relevant period.

engagement partner has the meaning given by the Code.

financial interest means:

- (a) a ‘direct financial interest’ within the meaning of the Code; or
- (b) an ‘indirect financial interest’ within the meaning of the Code and which is material.

relevant entity means a company, registered scheme or disclosing entity.

relevant period means a financial year or half-year of a relevant entity.

relevant person means a person specified in paragraph R510.4(c) of the Code.

Part 2—Order

5 Auditor's independence declaration

- (1) This section applies in relation to an audit or review conducted by an audit firm or audit company of the financial report of a relevant entity for a relevant period.
- (2) The lead auditor for the audit is relieved from the requirement to set out in a written declaration under paragraph 307C(3)(d) of the Act details of a contravention of paragraph R510.4(c) of the Code in relation to a financial interest held by a relevant person in the relevant entity or a controlled entity.
- (3) The relief in subsection (2) applies where all of the following are satisfied:
 - (a) the fair value of the financial interest has not exceeded \$10,000 at any time during or since the relevant period;
 - (b) the engagement partner is satisfied that the financial interest was not material to the relevant person;
 - (c) the relevant person has given a written confirmation to the lead auditor that the financial interest:
 - (i) began to be held by the relevant person without the relevant person knowing that it was a financial interest in the relevant entity or a controlled entity; and
 - (ii) was divested as soon as possible, and no later than 7 days, after the relevant person became aware that it was a financial interest in the relevant entity or a controlled entity;
 - (d) the lead auditor has given a written report to the directors of the relevant entity stating that the relevant person held the financial interest in contravention of paragraph R510.4(c) of the Code;
 - (e) the directors of the relevant entity have passed a resolution to the effect that the holding of the financial interest by the relevant person did not affect the independence and objectivity of the audit firm, lead auditor, review auditor or any member of the audit engagement team; and
 - (f) as at the time the lead auditor signs the auditor's independence declaration in accordance with paragraph 307C(5)(b) of the Act in relation to the relevant entity for the relevant period, the relevant person does not hold the financial interest.

Part 3—Repeal

6 Repeal

This instrument is repealed on 30 April 2026.