

## Chapter 10

# Experts' Reports – Getting it Right

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### Introduction

The expert's report is a key part of the information that is provided to security holders when they are considering a scheme of arrangement. Experts' reports are also required in other types of transaction, but it is the requirement for ASIC to approve an expert's report for a proposed scheme of arrangement which makes the preparation of these reports more demanding.

Changes to ASIC's regulatory guidance in 2007 and ASIC's recently increased scrutiny of experts' reports has put the preparers of such reports on notice that the bar has been lifted in their quality and preparation. It has become rare for an expert's report to be approved by ASIC without changes being made, which can often cause additional cost and delays to the process. This has also led to a shrinking pool of experts who are appointed to prepare reports for schemes of arrangement.

This chapter focuses on the issues that may cause problems in ensuring that an expert's report will be approved by ASIC and provides guidance on how to increase the likelihood that the report will be right the first time, by complying with ASIC's regulatory guidance.

### **When is an independent expert's report required in a scheme of arrangement?**

The requirement for an independent expert's report (IER) to be provided to shareholders arises in reg 5.1.01 and Schedule 8, cl 8303 of the *Corporations Regulations* which require that an IER must be provided if the other party to a reconstruction in a scheme of arrangement (a scheme) holds at least 30 per cent of the company or where

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