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Manager
Philanthropy and Exemptions Unit
Indirect, Philanthropy and Resource Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Australian Charities and Not-for-profits Commission Regulation 2012
Requirements for annual financial reports under the ACNC framework

Comments on draft regulations and requirements
Submission of the Lutheran Church of Australia Incorporated

1. LUTHERAN CHURCH OF AUSTRALIA INCORPORATED

The Lutheran Church of Australia Incorporated (LCA) is involved in a diverse range of altruistic charitable activities throughout Australia. This work is spread across various forms of legal structure and jurisdictions. Motivated unashamedly by the gospel of the Lord Jesus Christ, the LCA embraces all of the following:

- Promotion of faith development and spiritual well-being.
- Development of the local church and God's wider Church.
- Various ecumenical faith endeavours.
- The relief of hardship, poverty and societal injustice.
- Caring for the aged and infirmed.
- Provision of international aid and relief.
- Provision of faith based primary and secondary school education.
- Theological and vocational education and training.

The activities of the LCA find their form in a range of faith based organisations and this includes:

- Local churches and communities.
- National and State church ministry organisations.
- National college for theological training and accreditation.
- Schools and colleges.
- Welfare organisations.
- Residential aged care organisations.
- Organisations devoted to finance, fundraising, administration and governance.

Notwithstanding the diversity of activity and structure, this submission represents the views of the Lutheran Church of Australia Incorporated encapsulating its role in all of the above-mentioned activities and across a diversity of legal forms.

2. COMMENTS ON THE FINANCIAL REPORTING FRAMEWORK

It is recognised that a key component of the charter of the ACNC is to provide a centralised approach to a range of aspects underpinning the regulation and monitoring of the charitable and NFP sector. It is accepted that a central plank of this charter includes financial reporting frameworks.

The LCA is generally supportive of the financial reporting framework of the ACNC as proposed. The following observations of the framework are made:

- The foundational policy documents of the ACNC used terminology such as ‘one-stop-shop’ and ‘report-once, use-often’. The ability for the reporting framework to deliver outcomes of this nature in relation to financial reporting are far from certain.

- The LCA is aware that the annual reporting framework may not relieve charities from other reporting obligations, duplication and compliance costs. This is evidenced by the work of the Council of Australian Governments per its consulting paper of January 2013.

- The use of tiered reporting is sensible and supported, particularly with respect to making this consistent with the Corporations Law.

- The harmonisation of accounting standards and the reporting framework of the ACNC is strongly supported. It is recognised this remains conceptual at this time.

- The requirement for all registered entities to provide an annual information statement is met with some caution and uncertainty as to the likely content required and reasoning.

- The provision of a transition period for a number of aspects of the framework is supported.

3. SPECIFIC COMMENTS

Specific comments are made below in relation to the proposed reporting framework as follows.

3.1 Tiered financial reporting

The three tiered system of financial reporting based on a revenue threshold is generally supported by the LCA. The system proposed will impact registered charities differently pending their legal structure.

For companies limited by guarantee, the reporting guidelines are consistent with the Corporations Law and will streamline compliance.

For some entities including some state based incorporated associations, the proposed requirements will require provision of financial accounts to the ACNC where they may not have been provided previously. For example, an entity incorporated under the Associations Incorporation Act of SA does not reach a financial reporting threshold until its annual turnover is in excess of $500,000. Under the ACNC provisions, such entities would be deemed to be 'medium' sized once turnover reaches $250,000.

These observations heighten the need for the ACNC to genuinely become a 'report-once, use-often' framework and to work with other jurisdictions to relieve the burden of duplication.

3.2 Exemption for 'basic religious charity'

The likely exemption offered to a basic religious charity is strongly supported by the LCA. The financial veracity of such organisations have little or no public interest and often rely on very medial accounting systems and volunteer treasury functions.

The definition of 'basic religious charity' contained in Section 205-35 of the Act is considered extremely narrow by the LCA. The LCA would strongly encourage the ACNC to consider widening the definition to those entities that exist for the fundamental purpose of 'advancement of religion' and includes those that are separately incorporated. Certainly the definition should embrace those that are merely incorporated under state based incorporation legislation.

The LCA made a strong contention in relation to this matter concurrently with this paper in regard to its response to proposed governance standards.

3.3 Annual information statement

The LCA is cautious about the requirement for all registered entities to provide an Annual Information Statement (AIS). Some comments in this regard:

- This requirement needs to be managed carefully in relation to the compliance burden that it may potentially install on organisations that currently are not required to lodge with any authority.

- The application of a tiered reporting system to qualitative information arouses some intrigue as to the potential uses of the information and the propriety of differentiating based on quantitative measures.

- The extent to which disclosed information is to be made publicly available is unclear.

- In some cases, registered charities could with good reason consider disclosure of certain information to be prejudicial.

The ACNC should ensure that the reporting framework is sensitive to the above concerns and provides further opportunity for consultation where possible.

3.4 Annual financial reports and accounting standards

The commentary provided in the exposure draft explaining the policy direction of the ACNC with respect to annual financial reports and accounting standards is generally supported by the LCA.

In this regard the following observations are made:

- The inclusion of three main elements of the annual financial report is conventional and reasonable.

- The inclusion of a statutory 'responsible entities' declaration' is consistent with other jurisdiction reporting requirements and reasonable.

- The dialogue as to the 'reporting entity' and requirements to prepare general purpose financial reports appears to be conventional and unaffected by the creation of the ACNC. The role of the ACNC in bringing clarity to charities in relation to reporting would nevertheless be significantly helpful to the sector.

- Confirmation as to what the ACNC would require in relation to the content of a special purpose financial report would be helpful. In the experience of the LCA, non-reporting entities can have quite varied interpretations of propriety of financial reports and applicable accounting standards.

It is noted that the Australian Accounting Standards Board (AASB) and the ACNC are committed to work together to provide certainty and consistency in relation to some of the above-mentioned matters. This should also embrace the requirements of the Corporations Act where applicable.

It would be unfortunate if a registered charity needed to lodge its annual financial report with authorities other than the ACNC after a transition period has been achieved and 'red-tape' purportedly eliminated.

3.5 Audit and review requirements

The LCA is supportive of the tiered entity structure in relation to audit and review requirements pertaining to 'large' and 'medium' entities respectively. The qualification requirements in relation to accounting professionals suitable to provide such services are also supported.

It would be prudent to ensure that the LCA consults with the audit profession in relation to the definition of a 'review'. In the experience of the LCA, it is difficult for a registered company auditor to depart from legally enforceable auditing standards when expressing an opinion on a financial report of any kind. That is, an audit is often required by virtue of the service provider's professional obligations.

4. TRANSITION

The transition requirements proposed under the exposure draft are reasonable and should enable most registered entities to move comfortably to the new reporting regime.

An important matter for the LCA is the notion of substituted accounting periods. In this regard, it is noted that the Commissioner is granted discretion to approve substituted accounting periods other than a financial year ending 30 June. There is no indication as to when such discretion will be exercised.

The LCA has a number of organisations that utilise a financial year equivalent to a calendar year. This is crucial for a number of faith based organisations and educational entities of the church such as schools and colleges. Numerous of these organisations would be considered 'large' under the tiered reporting system.

The LCA strongly asserts that the Commissioner should enable substituted accounting periods to be 'grand-fathered' for existing charities that report on such a basis. Furthermore, there should be clear and supportive guidelines that demonstrate a willingness to provide the discretion with minimal 'red tape' or restrictions.

We appreciate the opportunity provided to make this submission.

Yours sincerely,

Lutheran Church of Australia Incorporated

Per

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