

The Manager  
Philanthropy and Exemptions Unit  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [nfpreform@treasury.gov.au](mailto:nfpreform@treasury.gov.au)

18 February 2013

Dear Sir,

## **Draft Regulations and Explanatory Material for Australian Charities and Not-for-Profits Commission - financial reporting requirements**

We appreciate the opportunity to comment on the draft regulations and accompanying explanatory material outlining the proposed financial reporting requirements applying to charities registered with the ACNC issued by Treasury.

We believe that in order to state that a financial report is true and fair it must comply with the recognition and measurement requirements of all Australian Accounting Standards and the presentation and disclosure requirements of AASB 101, AASB 107 Statement of Cash Flows, AASB 108 Accounting Policies, Changes in Accounting Estimates and Errors and AASB 1054 Australian Additional Disclosures. This will enable consistency and comparability between registered entities and ensure the financial reports are meaningful to users.

We consider further clarification is required in relation to the financial reporting requirements and set out our specific comments below.

### **Specific comments**

<b>Reference in Draft Regulations</b>	<b>Response</b>
<p><i>Financial statements in accordance with Accounting Standards</i></p> <p>Section 8 (1) of the Extract from draft Australian Charities and Not-for-profits Commission Regulation 2012 (the Extract)</p>	<p>We believe the purpose of this section is to require financial statements to be prepared in accordance with Accounting Standards; however the language used is unclear and does not specify that Accounting Standards mean Australian Accounting Standards.</p>

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<p>states that “the financial statements for the financial year are the financial statements in relation to the registered entity that are required to be prepared by the accounting standards.”</p>	<p>We believe section 8(1) could be clearer if wording such as “prepared in accordance with Australian Accounting Standards” was used.</p>
<p>Section 8(3)(b) states that “<i>subject to subsections (4) and (5), [financial statements and notes] must comply with the accounting standards.</i>”</p>	<p>In order to prepare a financial report in accordance with Australian Accounting Standards, all Australian Accounting Standards must be complied with. To allow an exemption from compliance with a specific Australian Accounting Standard would result in the Financial Report not complying with Australian Accounting Standards. This is contradictory to what we understand to be the purpose of these requirements, being that registered entities prepare quality Financial Reports that are in compliance with Australian Accounting Standards for user understanding and comparability.</p>
<p><b><i>The reporting entity concept</i></b></p> <p>Note 1 specifically refers to general purpose financial reports and special purpose financial reports.</p>	<p>Whilst this statement is correct we believe including such a specific statement is not in the best interests of the ACNC. Special purpose financial reports are subject to scrutiny in the current environment and steps are being taken to require all financial reports held out to be in accordance with Australian Accounting Standards to be general purpose financial reports. Therefore in the event that the reporting entity concept is changed in the future the ACNC would be required to amend the regulations for this change.</p> <p>We believe requiring registered entities to prepare Financial Reports in accordance with Australian Accounting Standards will allow them under the current framework to make an assessment of whether they are a reporting entity and prepare a general purpose financial report or special purpose financial report accordingly without requiring a specific statement in the ACNC regulations.</p>
<p><b><i>True and fair view</i></b></p> <p>Note 2 states “<i>if the financial statements and notes prepared in compliance with the accounting standards would not give a true and fair view, additional information must be included in the notes to the financial statements under paragraph (2)(b).</i>”</p>	<p>AASB 101 <i>Presentation of financial statements</i> (AASB 101) paragraph 15 states that “<i>financial statements shall present fairly the financial position, financial performance and cash flows of an entity. Fair presentation requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses set out in the Framework. The application of IFRSs, with additional disclosure when necessary, is presumed to result in financial statements that achieve a fair presentation.</i>”</p> <p>Therefore if the financial statements do not give a true and fair view of the registered entity they would not be in accordance with Australian Accounting Standards.</p> <p>We further note that AASB 101 paragraph 19 allows for a deviation from the requirements of an Australian Accounting</p>

	<p>Standard if it would result in misleading information, however this is stipulated to be in extremely rare circumstances. Furthermore, paragraph Aus19.1 states that entities preparing a report under the Corporations Act or private and public sector not-for-profit entities and entities applying RDR shall not depart from a requirement in an Australian Accounting Standard.</p> <p>As such, the Australian Accounting Standards do not currently allow for a number of the types of entities that would be preparing financial reports under the ACNC Act to depart from the requirements of an Australian Accounting Standard.</p> <p>If the purpose of Note 2 is to require any additional information required by a user to understand the Financial Report then, although already included within the requirements of AASB 101, this should be reworded as this is currently unclear.</p>
<p><b>Compliance with Accounting Standards</b></p> <p>Section 8(4) provides specific exemption for registered entities for compliance with the requirements for comparative information as required by AASB 101 for the transitional year.</p>	<p>Whilst we understand the urge to provide relief to registered entities preparing Financial Reports for the first time, such an exemption would mean the Financial Report does not comply with Australian Accounting Standards.</p>
<p>Section 8(5) states “<i>If the accounting standards are inconsistent with Subdivisions 60-E and 60-G of the Act then, to the extent of the inconsistency, the financial statements and notes do not have to comply with the accounting standards.</i>”</p>	<p>Whilst we cannot specifically comment if the requirements of 60-E (for specific information to be included if requested by the commission) or 60-G (for collective and joint reporting) will result in a contradiction, if this were to be contradictory to Australian Accounting Standards the Financial Report could not be held out to be in compliance with Australian Accounting Standards.</p>
<p><b>Reference in Explanatory Material</b></p>	<p><b>Response</b></p>
<p>The Explanatory Material explains that the reporting requirements are proportional to the size of the registered entity.</p>	<p>The Extract does not provide for different sizes, it specifies the requirements for registered entities financial reports.</p>
<p>Page 1 of the Explanatory Material allows for an exemption from transitioning from one tier to another if caused by something extraordinary.</p>	<p>No guidance is provided on what is considered to be “something extraordinary” therefore it is unclear how this would be applied in practice and monitored as well as how the relief from transitioning is obtained.</p>
<p>The Explanatory Material refers to audit and review requirements.</p>	<p>Audit and review requirements are not stipulated in the Extract.</p>

<p><b>Compliance with Accounting Standards</b></p> <p>Part 2 of the Explanatory Material states that <i>“the financial statements and notes will in most cases need to comply with accounting standards issued by the Australian Accounting Standards Board (AASB).”</i></p>	<p>We interpret this in relation to the exclusions from accounting standards per 8(4) and (5) as discussed above. As discussed above, we believe compliance is an integral part of the reporting framework.</p>
<p><b>Compliance with Accounting Standards</b></p> <p>Part 3 a) of the Explanatory Material refers to five standards that <i>“apply to all entities lodging reports under Part 2M.3, irrespective of whether they are reporting or non-reporting entities.”</i></p>	<p>Whilst we do not disagree with this comment, we believe it to be too narrow. We note that AASB 1054 <i>Australian Additional Disclosures</i> (AASB 1054) also applies to reporting and non-reporting entities.</p>
<p><b>Compliance with Accounting Standards</b></p> <p>The Explanatory Material continues to say <i>“these five standards are currently seen as necessary for any financial reports to give a true and fair view as required by the financial reporting regulations. In the Corporations Act context, ASIC has issued Regulatory Guide 85 “Reporting requirements for non-reporting entities”, which states that non-reporting entities lodging reports are required to comply with the recognition and measurement requirements of all accounting standards, and those disclosure requirements necessary to give a true and fair view. This regulatory guide applies only in respect of reports lodged under Part 2M.3 of the Corporations Act, and does not apply to reports that are required to be lodged under the ACNC Act.”</i></p>	<p>If entities under the ACNC Act are not required to comply with the recognition and measurement requirements of all Australian Accounting Standards, what criteria would they comply with and how would this be applied consistently by entities reporting under the ACNC Act?</p>

We would be pleased to discuss our comments with either yourself or other members of your team. If you wish to do so, please do not hesitate to contact me on (03) 9671 6120.

Yours sincerely,

A handwritten signature in cursive script that reads "Alison Brown".

Alison Brown

Partner

Deloitte Touche Tohmatsu