



21 September 2018

Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600
Via email: ExternalConductStandards@treasury.gov.au

Dear Sir or Madam

External conduct standards for charities registered with the Australian Charities and Not-for-profits Commission

Chartered Accountants Australia and New Zealand welcomes the opportunity to provide a submission to the Treasury on the draft regulations and explanatory statement for the proposed external conduct standards for charities registered with the Australian Charities and Not-for-profit Commission (ACNC). We have focused our feedback on the key areas where we consider we can add the most value to the consultation. Appendix A provides our detailed submission and Appendix B provides more information about Chartered Accountants Australia and New Zealand.

Key points

- As the external conduct standards are principles-based, it is important that the ACNC provides clear and practical guidance that outlines responsibilities and reporting obligations of an NFP in a variety of common arrangements. We highlight that the legislative and regulatory frameworks under which NFP entities operate are complex due to the variety of structures which NFP entities use and the nature of the activities they undertake.
- We recommend that the ACNC provide appropriate guidance to support NFP entities to set reasonable expectations when complying with the regulations.
- We note that obligations and requirements relating to conflicts of interest and the purpose of a charity are also outlined within the ACNC Governance Standards and recommend this duplication is removed.

Should you have any queries concerning the matters discussed in our submission or wish to discuss them in further detail, please contact Karen McWilliams via email at karen.mcwilliams@charteredaccountantsanz.com or phone (612) 8078 5451.

Yours sincerely,

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Advocacy & Professional Standing
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Appendix A

General Comments

As noted in the explanatory materials, the standards are intended to *promote transparency and greater confidence in the not-for-profit sector across the community and general public that funds sent and services provided overseas by the registered entity are reaching legitimate beneficiaries and being used for legitimate purposes*. Therefore, we consider it important that any subsequent reporting output should not be too onerous for NFPs to comply with. Instead we recommend greater focus should be on helping organisations to identify risk areas while operating outside Australia and educate them on how to mitigate the risks and handle any incidences which arise.

We highlight that NFP entities operate in a variety of sizes and structures and recommend that practical guidance is provided to assist entities in determining what is reasonable and fit for purpose. As the external conduct standards are intended to be principles-based, it is important that the ACNC provides clear and practical guidance around the responsibilities and reporting obligations of an NFP in a variety of common arrangements. For instance there are two domestic charities (charity A and charity B), both registered with the ACNC, that have entered into an agreement, charity A only carries out activities domestically and with charity B, charity B carries out activities both domestically and abroad. We understand from the roundtable we attended with Treasury, that it is intended that only one ACNC registered charity needs to comply with the external conduct standards. In this example, this would only be charity B as they are registered with ACNC with direct overseas activities. However, the explanatory materials are not clear in this regard and we recommend they are improved to clarify this situation.

50.20 Standard 1 – Activities and control of resources (including funds)

We note that obligations and requirements relating to conflicts of interest and the purpose of a charity are also outlined within the ACNC Governance Standards (Standard 1: Purposes and not-for-profit nature and Standard 5: Duties of responsible persons). Charities, apart from Basic Religious Charities (BRCs), must already meet the ACNC Governance Standards. We appreciate that the external conduct standards also apply to BRCs.

However, we note that if recommendation 16 of the *Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislation Review 2018* is accepted, this would apply the existing ACNC Governance Standards to BRCs which would avoid the need for duplication in the external conduct standards.

50.25 Standard 2 – Annual review of overseas activities and record-keeping

We are supportive of registered entities providing transparency over their operations both locally and abroad. It is important to keep in mind that the overall objective of the overseas activities statement is to promote transparency and accountability for the public and not to increase regulatory burden. As mentioned above, there should be a focus on helping various sized organisations to implement appropriate processes and procedures in identifying potential risks and mitigating them. We are happy to work with the ACNC as this guidance is developed.

50.35 Standard 4 – Protection of vulnerable individuals

We support the standard to protect vulnerable individuals from harm as a result of a NFPs activities. However, we consider that the current drafting could place an additional burden on NFPs to deal with issues that sit outside their primary remit. For example, representatives of the NFP may be concerned for the safety of vulnerable individuals, provided with services or accessing benefits under programs, in ways unrelated to the activities of the NFP. Such as a charity engaged in the provision of clean water or sanitation facilities becoming aware of domestic violence in the community they are working with.

We consider it important for entities to have an appropriate mechanism in place for reporting to the relevant authorities any concerns they come across. However, the current drafting states that the NFP '*must take reasonable steps to ensure the safety of vulnerable individuals*'. We don't consider it appropriate for the NFP to be responsible for the resolution of matters unrelated to the NFP's programs. We recommend that the '*reasonable steps*' needs to be clarified in the two instances: for situations where the concerns for safety are directly related to the programs and for those which are not.

Appendix B

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand is a professional body comprised of over 120,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations.

We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation professional accountants across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.