FRA NEWS

No.2/2013

Welcome to this issue of 'TNR FRA News'. Financial Reporting and Auditing (FRA) News ('FRA News') provides partners, staff and clients with a 'heads up' of contemporary financial reporting, auditing and corporate governance developments on a monthly basis. FRA News contains items requiring immediate consideration (**Need to Know**), whereas other items are for general information (**Nice to Know**).

FRA News is prepared by Colin Parker, Principal, GAAP Consulting, and former member of the Australian Accounting Standards Board (2006-2009) with the input of staff of GAAP.com.au Pty Ltd.

In this FRA News, your attention is drawn to the following developments:

Need to know:

- ASIC and ACNC dividing line
- ASIC or ACNC where to go?
- ATO and ACNC dividing line
- Updating your ACNC charity's details
- ACNC guides released
- 'Better Targeting of NFP Concessions' deferred
- SMSF auditor register is here
- ATO information sharing with ASIC
- Accounting Standards from 1 January 2013

Nice to know:

- Defined benefit funds – good disclosure needed
- Duplication of governance and reporting standards
- Recoverable amount disclosure proposals
- Auditors' responsibilities for other information ED

ATO and ACNC dividing line

The ACNC is responsible for determining charity status for all federal tax purposes. As part of its status determinations, the ACNC also decides whether a charity is a public benevolent institution (PBI) or health promotion charity (HPC). The ATO will continue to be responsible for administering tax concessions relevant to charities, including: income tax exemption; FBT rebate or exemption; GST charity concessions; deductible gift recipient (DGR) status.

Registration with the ACNC is voluntary. However, ACNC registration is now a prerequisite for charities to access charity tax concessions. If your entity was endorsed by the ATO as a charity to access charity tax concessions immediately before 3 December 2012, your entity is automatically registered with the ACNC and you do not have to re-register. HLB

ASIC and ACNC dividing line

The Australian Charities and Not for Profits Commission (ACNC), the Federal government's new one stop shop for the regulation of the nation's 56,000 charities, commenced operations on 3 December 2012.

These charities may include companies registered with ASIC including:

- public companies limited by guarantee – the most common type of company structure used by charities (and other not-for-profit purposes);
- proprietary companies limited by shares – such as a business that is wholly owned by a charity that has a similar charitable purpose registered Australian bodies – such as an incorporated association registered under a State Act and registered with ASIC if it carries on business outside the state or territory in which it is registered; and
- foreign companies – such as a charity formed or incorporated outside Australia but registered to carry on business in Australia.

Some reporting obligations under the Corporations Act 2001 no longer apply to companies and registered bodies that are registered with the ACNC. However, some Corporations Act requirements continue to apply.

To find out if a charity is registered with the ACNC, check the ACNC Register – Find a charity | Search the ACNC register. ASIC has been working with the ACNC to identify companies and registered bodies that are registered with the ACNC as charities. If your company or registered body (including registered Australian bodies and foreign companies) is included in error, or should be included, contact ASIC.

From the date your company or registered body is registered with the ACNC, some of the reporting obligations to ASIC no longer apply. Instead there are obligations to the ACNC. These continue for as long as the company or registered body remains a registered charity. If it is deregistered with the ACNC, obligations to ASIC will resume.

As a registered charity with the ACNC:

- A public company no longer needs to lodge changes to its constitution with ASIC or inform ASIC of the adoption or repeal of a constitution;
- A company is no longer required to send a copy of its constitution to members who request a copy;
- A company and registered body is no longer required to notify ASIC of a change of their address details, including their registered office address, principal place of business address or contact address. The ACNC will advise ASIC of changes to the registered office address of a company;
- A company and registered body is no longer required to notify ASIC of the appointment, resignation or retirement of directors, secretaries and alternate directors or submit personal details of directors and secretaries;
- A company will not be sent an annual statement each year (on the company's review date) and will not have to review their details or pay the annual review fee. However, if the last annual review date was before registration with the ACNC, the company must pay the annual review fee to ASIC;
- If an annual statement is received from ASIC after your registration with the ACNC and you believe it was issued incorrectly, contact ASIC; and
- All other obligations under the Corporations Act 2001 will continue to apply until further changes are introduced in July 2013. HLB

ASIC or ACNC where to go?

With the new ACNC legislation, it can be difficult for corporates to know what they need for the Corporation Act and ACNC for purposes.

Go to ASIC:

- apply to register a company, a foreign company or a registrable Australian body;
- apply to change the name of a company to omit the word 'Limited';
- apply to change the name of a company;
- notify changes to member details and share structure of a company;
- notify external administration of a company; and
- apply to deregister a company, foreign company or registered body.

Go to ACNC:

- apply to register a charity;
- notify of changes to company details including: addresses (including registered office address); officeholders (directors, alternate directors and company secretaries); constitution/governing rules;
- notify changes to details of a foreign company or registered body including: address; directors; constitution/governing rules; and name, and
- request to revoke registration of a charity or cease to be entitled to registration as a charity.

A registered charity may omit the word 'Limited'. A company registered as a charity by the ACNC is not required to have the word 'Limited' at the end of its name if the company's constitution: prohibits the payment of fees to its directors; and requires the directors to approve all other payments the company makes to directors.

The word 'Limited' may be omitted anywhere that the company's name is used. A change the company's legal name to omit the word 'Limited', apply to ASIC and pay the required fee. A special resolution to change the company's name to omit the word 'Limited' is no longer required. If ASIC changes the company's name, ASIC will send you an amended certificate of registration. If ceased to be registered by the ACNC, notify ASIC. ASIC will then update company registration details to include the word 'Limited' at the end of the name if it is not already included.

Where a company is registered with the ACNC but recently received an annual review statement and review fee from ASIC, if the annual review date is before registration with the ACNC, the company must complete the annual review process and pay the annual review fee by the due date. If the invoice was issued incorrectly contact ASIC.

Information about registration as a company or registered body will be available on both ASIC's registers and the ACNC register. The information on the ACNC register may not be complete when the register starts in December 2012. ASIC suggests you regularly check the ACNC website to find out when their register is fully developed. ASIC registers will be up-to-date until the time of your registration with the ACNC. After this time, officeholder and address details may no longer be up to date on the ASIC register. Charities will need to refer to the ACNC register for current information about a registered charity. HLB

Updating your ACNC charity's details

From 28 January to 25 February, the ACNC will send every charity a form to use to update information on ACNC records; the form will also be available from its website. This will be a chance to notify the ACNC of: address, governing rules, details of responsible persons (e.g. members of the governing body), and if your charity has a financial year that does not end on 30 June.

There is a separate application process for charities who wish to form a reporting group. A reporting group can provide a single annual information statement (and, from 2013/2014, a single financial report). It can also provide one or more annual information statements (and, from 2013/2014, one or more financial reports) on a basis other than entity-by-entity. If you wish to form a reporting group, you will be able to apply for approval using a form which will become available on ACNC website shortly. HLB

SMSF auditor register is here

ASIC's registration of self-managed super fund (SMSF) auditors started on 31 January 2013. Under the new regime, ASIC has responsibility for registering 'approved SMSF auditors', setting competency standards and, where appropriate, cancelling, suspending or disqualifying auditors. Registration will be mandatory for anyone conducting an SMSF audit from 1 July 2013 and sanctions may apply if an auditor accepts an SMSF audit engagement without being registered after this date.

Approved SMSF auditors will have ongoing obligations under section 128F of the Superannuation Industry (Supervisory) Act 1993 to comply with the competency standards set by ASIC. Auditors are also required by the legislation to comply with the auditing standards issued by the Auditing and Assurance Standards Board.

To be registered, SMSF auditors must meet minimum education, experience and competency requirements. SMSF auditors must also maintain professional indemnity insurance. Existing approved SMSF auditors can apply for registration under transitional arrangements between 31 January and 30 June 2013, which may exempt them from some registration requirements. Under these arrangements, registered company auditors are not required to undertake a competency exam nor are they required complete to 300 hours of work auditing SMSFs.

ASIC has advised prospective registrants to apply early, as applicants will not be able to practise as SMSF auditors from 1 July 2013 until they are registered.

Applicants should lodge by 30 April 2013 to provide ASIC with adequate time to process their application. Auditors doing SMSF audits can apply for registration online. The new register is part of the Australian Government's 'Stronger Super' reforms. Auditors can apply to register as an SMSF auditor through ASIC Connect, via www.asic.gov.au. Registration requires an ASIC Connect account.

Regulatory Guide 243 'Registration of self-managed superannuation fund auditors' and Class Order 12/1687 'Competency standards for approved SMSF auditors' provide further information on the requirements SMSF auditors must meet and the transitional arrangements for the registration of existing approved auditors of SMSFs. HLB

ATO information sharing with ASIC

Under the new legislative provisions for SMSF auditor registration, the ATO has authority to disclose information to ASIC for the purposes of administering the SMSF auditor registration regime. The law that provides for this disclosure took effect from 31 January 2013.

The ATO will disclose information regarding persons who are disqualified from being an SMSF auditor and informal agreements and enforceable undertakings accepted by the ATO from approved auditors. Additionally information about auditor compliance cases underway will also be provided to ASIC by the ATO. Given the shift in regulatory roles, the ATO is providing this information to ASIC to ensure that ASIC is equipped with the same relevant information that the ATO has been able to access in its role as Regulator of SMSF auditors.

This will ensure a continuity of regulation of SMSF auditors and allow ASIC to administer the SMSF auditor registration system effectively. HLB

'Better Targeting of NFP Concessions' deferred

In 2011-12 Budget 'Better Targeting of NFP Tax Concessions' measure was announced that proposed new tax on the commercial activities of not-for-profit entities; it will now commence from 1 July 2014.

The start date of 1 July 2014 is proposed to apply to activities that commenced after 7:30 pm (AEST) on 10 May 2011. The measure will not impact on tax concessions that were used for these activities prior to 1 July 2014. As part of transitional arrangements, relevant activities that commenced prior to 7:30 pm (AEST) on 10 May 2011 will not become subject to the measure until 1 July 2015.

The measure will not impact on tax concessions that were used for these activities prior to 1 July 2015. This extension will enable further consultation and engagement with the NFP sector on this measure and ensure there is an opportunity for detailed stakeholder input to be provided. HLB

Accounting Standards from 1 January 2013

The start of the New Year sees the following significant accounting standards being effective for annual reporting periods beginning on or after 1 January 2013:

- AASB 10 'Consolidated Financial Statements';
- AASB 2011-7 'Amendments to Australian Accounting Standards arising from the Consolidation and Joint Arrangements Standards [AASB 1, 2, 3, 5, 7, 9, 2009-11, 101, 107, 112, 118, 121, 124, 132, 133, 136, 138, 139, 1023 & 1038 and Interpretations 5, 9, 16 & 17]';
- AASB 127 'Separate Financial Statements' (2011);
- AASB 11 'Joint Arrangements';
- AASB 128 'Investments in Associates and Joint Ventures (2011);
- AASB 12 'Disclosure of Involvement with Other Entities';
- AASB 13 'Fair Value Measurement'; and
- AASB 2011-8 'Amendments to Australian Accounting Standards arising from AASB 13 [AASB 1, 2, 3, 4, 5, 7, 9, 2009-11, 2010-7, 101, 102, 108, 110, 116, 117, 118, 119, 120, 121, 128, 131, 132, 133, 134, 136, 138, 139, 140, 141, 1004, 1023 & 1038 and Interpretations 2, 4, 12, 13, 14, 17, 19, 131 & 132]'.

Not-for-profit entities have been given a year's extension from applying AASB 10 'Consolidated Financial Statements'.

The 'intercompany' and 'fair value' standards are complex standards. They require through analysis, which will be subject to audit. Governance and other stakeholders need to be engaged; remember the Centro judgement principles. Systems and financial reporting templates revised, including the 3rd balance sheet preparation where there are transitional adjustments.

On the audit front, the amendment 'Definition of Public Interest Entity' to APES 110 'Code of Ethics for Professional Accountant' is operative from 1 January 2013 as is APES 110 'Risk Management for Firms' that applies to accounting firms. HLB

ACNC guides released

The ACNC published:

- 'My charity and the ACNC – Guide for board members and others who manage charities'
- 'Not-for-profit reform and the Australian Government' guide that provides an overview of the Australian Government's NFP reform agenda and the regulatory environment in which charities operate since the establishment of the ACNC. The guide includes a 'who's who' of some of the principal Australian Government agencies responsible for not-for-profit reform and a summary of the different parts of the agenda and their current status
- 'ACNC Implementation Report Update' report which provides further information on matters which were under development when the original report was published in June 2012. It also features information on ongoing priorities such as the development of the ACNC's regulatory approach, the streamlining of charity reporting and further efforts to engage with our stakeholders, and
- Some handy quick tips which should prove useful for charity board members on a number of key topics including: 'Holding your annual general meeting'; 'Basic financial controls'; 'Conflicts of interest'; 'Choosing a new board member'; and 'Internal disputes'. HLB

Defined benefit funds – good disclosure needed

Nice to know

ASIC is encouraging trustees of defined benefit (DB) superannuation funds to make timely and appropriate disclosures to members in the wake of poor returns caused by the global financial crisis. This follows a review of the disclosure practices of DB funds following the GFC, during which time funds across the superannuation sector experienced poor investment returns. ASIC's focus is on ensuring trustees make appropriate disclosure to members and improving disclosure practices in relation to DB funds more generally. Trustees of defined benefit superannuation funds are required to notify members of significant events and changes in their fund's financial situation, particularly if there is a funding shortfall that an employer will not rectify.

To determine the extent of the impact of the GFC on other DB funds, and examine the disclosure practices of those funds, ASIC contacted DB fund trustees about their funds' financial position and the disclosures they were making to members about their fund's financial situation, particularly where there is a funding shortfall. ASIC paid particular attention to the funds' Vested Benefits Index (VBI), a measure of the financial position of a fund. The VBI is the ratio which represents a fund's ability to pay vested benefits to members if all members were to voluntarily leave the fund on the same day. A fund's VBI should generally be above 100% to meet its vested benefit liabilities. A fund with a VBI of less than 100% means it has assets insufficient to cover all of members' vested benefits.

ASIC's review of approximately 470 defined benefit funds and sub-funds found, among other things, that: 58% of these funds' current or most recent VBI is at 100% or above; 30% reported a VBI between 90-100%; 7% reported a VBI between 80-90%; and 1% reported a VBI of less than 80%. The remaining 4% of funds had either closed, had no more defined benefit members, or had not disclosed their VBI on the basis they are government funds.

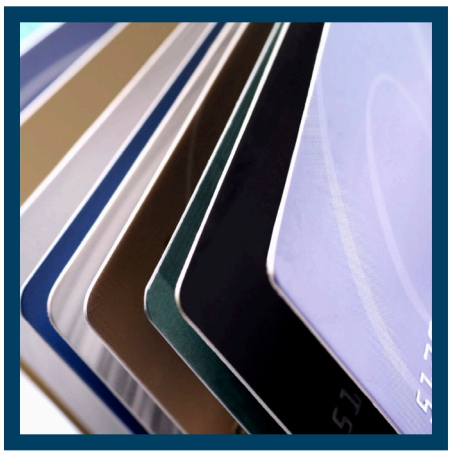
ASIC noted that more than 70% of trustees of funds with a funding shortfall disclosed the shortfall to members in the trustee's annual report. Most remaining trustees did not disclose their fund's funding shortfall on the basis that the employer has agreed to a suitable rectification plan to bring the VBI back to above 100%.

ASIC further notes that there are significant differences between a fund being in an unsatisfactory financial position and a fund being in a state of technical insolvency. A fund will be in an unsatisfactory financial position if their VBI drops below 100% and the fund has a shortfall. Technical insolvency means that the defined benefit fund's net realisable assets, after setting aside the amounts for payments to former members of the fund, are insufficient to pay the minimum requisite benefits of the fund's current members.

Connected with Stronger Super reforms, recent draft reporting standards released by the APRA propose that APRA collect and publish VBI data for defined benefit funds from July 2013 onwards. ASIC notes this may affect the disclosures that trustees choose to make to their members, as trustees may wish to provide explanations for their financial position to members who would otherwise get the data from APRA. Further, APRA's proposed Prudential Standard SPS 160 'Defined Benefit Matters' requires that trustees set a shortfall limit below which the trustee must arrange for an interim actuarial investigation. While this prudential standard is still to be finalised, trustees should consider whether disclosure of, and reporting against, the shortfall limit for the fund is appropriate.

For those trustees with open defined benefit funds, disclosure of market risk can be important information for members to have at the point at which they join the fund – that is, in the product disclosure statement (PDS). ASIC encourages trustees to provide information in the PDS about the fund's financial position and shortfall limit, the effect of market risk on the fund, and any shortfall rectification plan, if appropriate.

In the unlikely event a PDS is still being issued to new members when a fund becomes insolvent or the trustee does not have a reasonable expectation that a shortfall will be rectified within an appropriate timeframe, ASIC expects the PDS to clearly explain the fund's financial situation. Where a fund becomes insolvent or a shortfall will not be rectified in an appropriate timeframe this represents a material change or significant event affecting the fund. ASIC expects trustees of funds in this position to make appropriate and timely significant event disclosures to their members. HLB



Charity governance and reporting standards duplication

The Council of Australian Governments (COAG) released a 111 page consultation regulatory impact assessment (RIA) to examine ways to reduce regulatory duplication between the proposed Commonwealth governance and reporting standards and existing State and Territory requirements for charities registered with the Australian Charities and Not-for-profits Commission. The RIA process provides stakeholders with an opportunity to provide feedback on proposed options that would address potential regulatory duplication. Closing date for submissions is 21 February.

The purpose of this paper is to identify and quantify the extent of duplication between existing and proposed governance standards and reporting requirements on charities, with a view to assisting a final report to COAG to determine whether it is a problem that would warrant government action. This paper also seeks stakeholder feedback on options that might address duplication. The paper does not quantify any potential additional regulatory burden (or compliance savings) that may be imposed (or generated) by the new arrangements. In particular, it does not quantify the costs or benefits of:

- Imposing governance and financial reporting requirements on entities currently not subject to any such requirements (such as unincorporated associations)
- Changes made to Commonwealth only regulated entities (such as companies limited by guarantee), or
- Opportunities for other regulatory requirements outside of the scope of the ACNC to be improved as a consequence of the creation of the ACNC (such as simplification of fundraising laws).

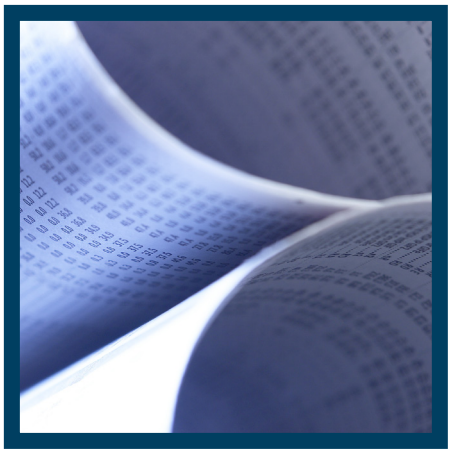
Recoverable amount disclosure proposals

The IASB and AASB published an Exposure Draft of proposed modifications to the disclosures in IAS 36 'Impairment of Assets' (AASB 136 of the same title) for the measurement of the recoverable amount of impaired assets. Those disclosure requirements were introduced by IFRS 13 'Fair Value Measurement' (AASB 13 of the same title).

The ED proposes to narrow the application of the requirement to disclose the recoverable amount of an asset, and clarify the disclosures when an asset has been impaired. The AASB ED 235 'Recoverable Amount Disclosures for Non-Financial Assets' (Proposed Amendments to IAS 36), which incorporates IASB ED/2013/1. Comments to the AASB are requested by 28 February and to the IASB by 19 March.

Currently, there is a requirement to disclose the recoverable amount of each CGU(s) to which a significant portion of the overall carrying amount of goodwill or intangible assets with indefinite useful lives has been allocated; it applies whether or not an impairment loss has been recognised for that unit in the current period. The proposed amendments would remove this requirement for all CGUs, and require the disclosure of the determined recoverable amount only where an impairment loss was recognised during the reporting period.

It is proposed to amend and clarify the disclosures required when an asset is impaired and recoverable amount has been determined on the basis of the asset's fair value less costs of disposal. The proposed amendments would retain the existing exemption from the disclosure requirements of IFRS 13, but would require the provision of the following information: the valuation techniques used and any changes in that valuation technique; the level of the 'fair value hierarchy' (from IFRS 13) within which the fair value measurement of the asset has been determined; for items in Levels 2 and 3 of the fair value hierarchy, key assumptions used in the measurement of fair value, including an explicit requirement to include the discount rate used if a present value technique has been used.



Auditors' responsibilities for other information ED

The AUASB invites comments on the IAASB's ED 'The Auditor's Responsibilities Relation to Other Information in Documents Containing or Accompanying Audited Financial Statements and the Auditor's Report Thereon'. The proposed standard clarifies and enhances the scope and focus of auditor efforts on "other information", i.e., information included in documents containing or accompanying the entity's audited financial statements.

The proposals recognise that significant changes in financial reporting have occurred over the last two decades regarding the information issued in connection with an entity's financial statements and the manner in which it is shared with users.

The ED proposes amendments which extend the scope of the extant standard and the auditor's responsibilities contained therein, and include suggested auditor reporting responsibilities. The AUASB requests comments by 22 February. The IAASB comment period closes on 14 March.

Under the proposed standard, the auditor is required to read and consider the other information in light of the understanding of the entity and its environment the auditor has acquired during the course of the audit, and to respond appropriately when the auditor identifies a potential material inconsistency in the other information or a material misstatement in the audited financial statements.

The proposed ISA 720 expands the documents considered as "other information," and clarifies and enhances the nature of the auditor's responsibilities with respect to reading and considering other information. In addition, it includes guidance to assist auditors in determining the nature and extent of their work in considering the other information.

Proposed ISA 720 (Revised) also introduces reporting obligations to explain in the auditor's report the nature of the auditor's responsibilities relating to the other information and the findings from the auditor's work, to enhance transparency. The proposals do not extend the scope of the auditor's opinion on the financial statements to cover the other information. HLB

Internet

Copies of 'FRA NEWS' are available on the internet at www.tnr.com.au

Queries

For further information or assistance, please contact your TNR Audit & Assurance Partner or Manager.

The information provided in this publication was provided by Colin Parker FCA, former member of the AASB.