



Project:	AASB 1056 Conversion	Meeting	AASB May 2023 (M195)
Topic:	Converting AASB 1056 <i>Superannuation Entities</i> to a Legislative Instrument	Agenda Item:	7.1
		Date of Agenda Paper:	18 April 2023
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		Decision- Making:	Low
		Project Status:	Pre-ballot draft of a proposal document

Objective of this agenda item

- 1 To **consider** a pre-ballot draft of a fatal-flaw review draft of a new principal version of AASB 1056 *Superannuation Entities* to be made by the Board as a legislative instrument, which is needed to support forthcoming amendments to the *Corporations Act 2001*.

Attachments

- Agenda paper 7.2 Pre-ballot draft of Fatal-Flaw Review Draft of a reissued AASB 1056 *Superannuation Entities*.

Background and reasons for bringing this agenda item to the Board

- 2 The AASB first issued AASB 1056 in June 2014 as an Accounting Standard without reference to its authority to make Standards for the purposes of the *Corporations Act 2001*. This reflected that, at the time, superannuation entities were not required by the Corporations Act or other legislation to prepare financial statements and lodge them with a regulator.
- 3 The Standard needs to be reissued by the AASB as a legislative instrument under Section 334 of the Corporations Act. This reissuance is in response to forthcoming amendments to the Corporations Act that will require registrable superannuation entities (RSEs) to prepare annual financial statements that comply with Australian Accounting Standards and lodge them on the public record with the Australian Securities and Investments Commission.¹ Since the requirements of AASB 1056 differ in some respects from other Australian Accounting Standards, it is necessary for this Standard also to be a legislative instrument to take precedence over the other Standards as necessary.
- 4 The purpose of the amendments to the Corporations Act is to ensure that RSEs are subject to financial reporting and auditing requirements consistent with the requirements currently applicable to companies and registered schemes. Accordingly, sections 296 and 297 will require an RSE's financial report to comply with accounting standards and give a true and

¹ See the [Treasury Laws Amendment \(2022 Measures No. 4\) Bill 2022](#), which has passed the House of Representatives but remains before the Senate. Schedule 6 covers the proposals to extend and adapt the financial reporting and auditing requirements in Chapter 2M to apply to registrable superannuation entities.

fair view of the financial position and performance of the entity. Paragraph 6.50 in the Explanatory Memorandum accompanying the Bill (accessible via the link in footnote 1) notes that the accounting standards are made by the AASB under section 334 of the Corporations Act, by legislative instrument, for the purposes of the Act.

- 5 The new legislative requirements are expected to be in place for the 2023/24 financial year. Therefore, a legislative-instrument version of AASB 1056 is required to be in place for application by RSEs to that and subsequent financial years.

Summary of staff recommendations

- 6 Staff recommend the following approach:
- (a) the AASB undertakes a public due process by issuing a Fatal-Flaw Review Draft version of a reissued AASB 1056 for a four-week comment period;
 - (b) some minor revisions, but no substantive changes, be proposed to the existing AASB 1056 since a post-implementation review of AASB 1056 is currently underway; and
 - (c) the reissued AASB 1056 should apply to annual reporting periods beginning on or after 1 July 2023, to be consistent with the expected commencement of the Corporations Act amendments.

Reissuing AASB 1056 as a legislative instrument

- 7 The AASB has not previously needed to reissue a Standard to convert it into a legislative instrument, as other Standards not issued under the Corporations Act power (being Standards applying only to public sector entities) have not required such reissuance. The AASB, therefore, should decide how to proceed. The [AASB Due Process Framework for Setting Standards](#) (2019) (paragraph 4.1) notes that the AASB's due process requirements are built on principles that include transparency, appropriate consultation and accountability.
- 8 The staff, therefore, recommend that the AASB undertakes a public consultation process by issuing a Fatal-Flaw Review Draft version of a reissued AASB 1056. A Fatal-Flaw Review Draft proposal document typically has a shorter comment period than an Exposure Draft in recognition that major issues are not expected to be raised by stakeholders in response to the proposals. If any significant issues are raised, they can be addressed in the AASB's post-implementation review (PIR) of AASB 1056 (see agenda item 6 for this meeting).

Compliance with AASB 1056

- 9 AASB 1056 was issued in 2014 and has been applied by superannuation entities voluntarily since it superseded AAS 25 *Financial Reporting by Superannuation Plans* for annual reporting periods beginning on or after 1 July 2016. Staff interviews with key stakeholders (ASIC, APRA, large audit firms and large superannuation entities) carried out so far for the AASB 1056 PIR have indicated that the level of compliance with AASB 1056 is very high, with none noting any specific cases of non-compliance. The stakeholders did not expect the introduction of the Corporations Act amendments to affect how AASB 1056 is applied.²

2 Agenda paper 6.1 for this meeting addresses the preliminary feedback from the staff outreach to date under the AASB 1056 PIR project and the approach to further consultation.

- 10 Some stakeholders identified a range of factors that have tended to support compliance with AASB 1056 in the absence of legal backing for the current Standard, including:
- (a) APES 205 *Conformity with Accounting Standards* requires members of the Accounting Bodies that prepare or audit RSE financial statements to take all reasonable steps to apply Australian Accounting Standards, including AASB 1056;
 - (b) the superannuation industry is highly regulated in a wide range of areas and there is a general culture of compliance;
 - (c) although regulators are not currently responsible for monitoring compliance with AASB 1056, there is a reasonable degree of alignment with other regulatory reporting requirements; and
 - (d) AASB 1056 has been reasonably well-received by the industry.
- 11 In the absence of significant non-compliance with the existing AASB 1056, a more limited due process for the reissuance of AASB 1056 to give it legislative backing is considered appropriate, rather than an extensive due process.

Scope of AASB 1056

- 12 By virtue of the definitions of “superannuation entity”, “superannuation plan” and “approved deposit fund” in Appendix A of AASB 1056, the Standard applies generally to RSEs that are public offer funds regulated under the *Superannuation Industry (Supervision) Act 1993*. This scope is essentially similar to the scope of the proposed Corporations Act amendments. For example, self-managed superannuation funds and small APRA funds are not covered by either AASB 1056 or the proposed legislative amendments. No changes to the scope of AASB 1056 are considered necessary.

Minor revisions proposed to AASB 1056

- 13 To convert AASB 1056 into a legislative instrument, the draft Fatal-Flaw Review Draft version of a reissued AASB 1056 proposes some minor revisions. The draft Fatal-Flaw Review Draft proposes the deletion of the following outdated requirements and material:
- (a) the application paragraph identifying the entities and financial statements to which the Standard applies (paragraph 2) – the application of Standards is now set out in AASB 1057 *Application of Australian Accounting Standards*;
 - (b) the transitional provision (paragraph 37) that permitted an entity applying the Standard for the first time to not present a statement of financial position as at the beginning of the first comparative period – superannuation entities initially applying the reissued AASB 1056 would have prepared a statement of financial position under the original AASB 1056, so the transitional provision would not have any significant further application; and
 - (c) the section addressing the main differences between AASB 1056 and AAS 25 – as AAS 25 ceased to apply when AASB 1056 became applicable to periods beginning on or after 1 July 2016, the comparison has no continuing relevance.
- 14 Some additions to the current AASB 1056 are proposed in the Fatal-Flaw Review Draft:
- (a) a new Preface to note the circumstances and main changes to the Standard; and

- (b) the addition of a paragraph (paragraph 38) to address the legal commencement date of the Standard, which is required of any new principal version of a Standard that is to be issued as a legislative instrument.

15 Paragraph 5 in the Fatal-Flaw Review Draft notes that the new principal version would “supersede” the June 2014 version. The typical “repeal” wording used in the AASB’s Standards to legally repeal the previous version of a Standard is not required because the previous version of AASB 1056 is not a legislative instrument. The simpler wording generally used in this circumstance is sufficient.

Application date

16 To be consistent with the expected application of the Corporations Act amendments from the 2023/24 financial year, the Fatal-Flaw Review Draft proposes the application of the reissued Standard to annual reporting periods beginning on or after 1 July 2023. Earlier application would be permitted but would not have any real effect given the lack of substantive change to the requirements of the Standard.

17 If the reissued Standard is formally made by the AASB *after* 1 July 2023, the Standard can still be made applicable to the 2023/24 financial year by specifying its application to periods beginning on or after 1 July 2023 that end on or after a date later than the date the AASB makes the Standard. This avoids any potential retrospectivity in relation to completed financial years (which would have to be unusually short). As a result, the Standard does not need to be remade *prior to* 1 July 2023. In any case, the Corporations Act amendments need to have been passed by Parliament before it is necessary and appropriate for the AASB to convert the existing Standard into a legislative instrument formally.

Comment period for the Fatal-Flaw Review Draft

18 Given the general compliance with the existing AASB 1056 and the limited revisions proposed in the draft Fatal-Flaw Review Draft, staff recommend a short comment period for the proposal document. Paragraph 6.5 of the *AASB Due Process Framework for Setting Standards* suggests generally a four-week comment period for fatal-flaw review drafts, with a shorter period if narrow in scope and urgent.

19 Reissuing AASB 1056 is relatively narrow in scope due to its industry focus and the limited revisions proposed, but is not urgent. Staff, therefore, recommend a comment period of four weeks from the date of issue as appropriate.

Approval of the Fatal-Flaw Review Draft

20 The attached draft proposal document is presented as a Pre-Ballot Draft. Board members are invited to provide staff with any comments regarding the contents or drafting. A ballot draft version will be prepared after the AASB meeting and circulated out of session for approval by the members.

21 Alternatively, if there are only limited editorial comments in respect of the draft proposal document, then the AASB may wish during the meeting to approve the document for issue, with the drafting to be finalised out of session by a sub-committee or by the Chair.

Decisions required

22 At this meeting, Board members will be asked to address the following questions, reflecting the issues covered in this agenda paper.

Questions for Board members

- Q1 Do Board members have any questions or comments?
- Q2 Do Board members approve undertaking a limited due process based on a fatal-flaw review draft version of a reissued AASB 1056?
- Q3 Do Board members support the minor revisions to AASB 1056 proposed in the draft Fatal-Flaw Review Draft and the proposed application date?
- Q4 Do Board members support a four-week comment period?
- Q5 What process do Board members support for final approval to issue the Fatal-Flaw Review Draft for public comment?