



To:	AASB members	Date:	14 January 2010
From:	Angus Thomson	Agenda Item:	14.4.1
Subject:	ASIC Consultation Paper on facilitating debt raising	File:	--

Action

Consider whether to make a submission on the ASIC Consultation Paper 126 *facilitating debt raising* and, if so, the key themes on which the Board should comment.

Background

The ASIC issued Consultation Paper 126 *Facilitating debt raising* in December 2009. The Paper proposes simplified prospectus requirements in respect of ‘vanilla’ retail bond raisings and offers of convertible notes to institutional investors that meet certain conditions. Comments are due to the ASIC by 19 February 2010.

The Board has recently clarified that its focus is on GPFs. The Board has not specifically identified whether this includes prospectuses, but staff consider that the definition of GPFs¹ is likely to apply to financial statements that are required to be in many types of prospectus, particularly those aimed at retail investors.

The proposed simplified requirements in relation to offers to institutional investors rely, to a degree, on the market being provided with relevant information through annual reports and include proposals that issuers have certain ongoing information in their annual reports. Section D of the Paper proposes relief from the on-sale provisions for the on-sale of underlying quoted securities issued on the conversion of convertible notes where, among other things, the annual report of the issuer contains information about:

- * how many notes can still be converted, the number of underlying securities they will convert into, the price (if any) to be paid on conversion and the circumstances in which conversion may occur;
- * the issuer’s remaining liability to make payments under the notes;
- * the average conversion price (if any) paid for any notes converted during the previous 12 months and the number of underlying securities issued on conversion; and
- * any other matters relating to the notes that holders of the issuer’s ordinary shares or other ED (enhanced disclosure) securities would reasonably require to make an informed assessment of the issuer’s financial position and its prospects for future financial years.

¹ AASB 101 *Presentation of Financial Statements* defines GPFs as “financial statements intended to meet the needs of users who are not in a position to require an entity to prepare reports tailored to their particular information needs”.

Memorandum

In Section E, the Paper also asks general questions about the current operation of the annual reporting regime and how annual reports might be improved as an effective source of information for investors.

Staff recommendation

Whether an issuer must provide a prospectus (or other offer document) for a particular type of issue of securities is a matter of public policy. To the extent that the proposals impact on the content of GPFSS, this is a matter for the AASB.

Accordingly, staff recommend that the Board make a submission on the ASIC Paper and that the Board's comments should address:

- * the Section D proposals for additional information in the annual report; and
- * Section E on the effectiveness of annual reports for investors.

Proposed timeline

<i>Action</i>	<i>Date</i>
Input from Board members on relevant proposals	February meeting
Circulate AASB staff draft comments to members (or sub-committee of members)	9 February
Members (or sub-committee of members) to review and comment on staff draft	15 February
Finalise comment letter with input from Chairman	19 February

Attachment

ASIC Consultation Paper 126 *Facilitating debt raising* – Agenda paper 14.4.2