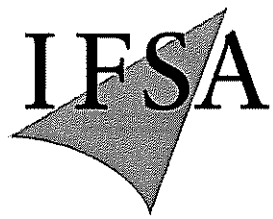

Investment & Financial Services Association Ltd

ACN 080 744 163

14 November 2005

Mr David Boymal
Chairman
Australian Accounting Standards Board
PO Box 204
Collins Street West
MELBOURNE VIC 8007

Dear Mr Boymal

Submission in relation to ED 143 – Director and Executive Disclosures by Disclosing Entities: Removal of AASB 1046 and Addition to AASB 124

Thank you for the opportunity to provide comments on ED 143.

IFSA represents the retail and wholesale funds management and life insurance industries. We have over 100 members who are responsible for investing approximately $850 billion, on behalf of over nine million Australians. Our members account for over ninety percent of Australia's funds management industry.

This implementation of the accounting practice requirements presents a significant challenge to the managed investment industry particularly for the 31 December 2005 financial reports. The Government Regulations, in order to continue to provide relief from the duplication of remuneration disclosures, will require amendment to replace references to AASB 1046 with references to AASB 124. It is possible that the regulations will not be updated in time for the completion of the full year financial statements for the year ending 31 December 2005.

Notwithstanding the above, IFSA wishes to re-emphasise its previously expressed views on certain aspects of the ED as they might apply to the great majority of Managed Investment Schemes, and other similar vehicles (MIS) in Australia. In particular, IFSA wishes to state that the proposed application of paragraphs Aus25.1 to Aus25.7.3 and the comments set out in Appendix 1 to the ED are inconsistent with not only the objectives of IAS 24 and the comments contained in the Basis for Conclusions to IAS 24 but also are inconsistent with international reporting practices being applied to such vehicles in other prudentially regulated markets such as the USA, the UK and the EU.[1]

[1] Refer United States AICPA Audit and Accounting Guide "Audits of Investment Companies"; Refer UK Investment Management Association's proposed Statement of Recommended Practice - Financial Statements of Authorised Funds

In order to assist in your understanding of our comments, we have included as Annexures 1 and 2, a brief background of the Managed Fund Industry and an explanation of the practical difficulties ED 143 will impose on members

In amplification of our earlier comments, IFSA wishes to make the following representations to the AASB:

- When MIS were first brought under the Corporations Legislation (the Act) and the responsibility for MIS meeting their financial reporting requirements was set out in Section 285 of the Act, ASIC made it quite clear in its Practice Note 68 that Section 285(3)(b) of the Act was not put in place to require detailed disclosure of the individual remuneration of Directors and Officers of Responsible Entities (REs) in the financial reports of MIS.

- In the Basis for Conclusions accompanying IAS 24, BC6 states that

  "The Board...decided that the Standard should require disclosure of key management personnel compensation because.....

  (b) key management personnel compensation is relevant to decisions made by users of financial statements when it represents a material amount. The structure and amount of compensation are major drivers in the implementation of business strategy. "

  Further, Basis for Conclusion BC7 states that "....the Board noted that disclosing key management personnel compensation would improve transparency and comparability, thereby enabling users of financial statements to make a better assessment of the impact of such compensation on the entity's financial position and profit and loss....."

  As there is no direct connection between the way an RE remunerates its Key Management Personnel (KMP) and the amount of fees paid to the RE by various MIS, or the performance of an MIS' assets, the rationale for KMP disclosures set out in IAS 24 as they relate to any reporting entity are not realistically "attributable" to an MIS financial report.

- Disclosure of any directors' and executives', or KMP remuneration does not meet the AASB's stated aim of providing information as to the cost of corporate governance of a managed investment scheme. That is because the cost of governance of an MIS is not of itself readily separable from the overall cost of operations of an MIS which is inclusive of the fees and recovered expenses paid to the RE (or other external service providers).

- Amounts paid by the MIS to entities such as an RE or other external service providers do not meet the definition of compensation. Compensation is defined in the ED as including all employee benefits (as defined in AASB 119 Employee Benefits) including employee benefits to which AASB 2 Share-based Payment applies. The ED goes on to state that employee benefits are all forms of consideration paid, payable or provided by the entity, or on behalf of the entity, in exchange for services rendered to the entity.

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- "Employee benefits" is not defined in ED143, but is defined in AASB 119 as all forms of consideration given by an entity in exchange for services rendered by employees. Unless an MIS has internal employees it should not be seen as having its own KMP.

Specific Matters for Comment as detailed in the Standard:

The Board has requested specific comment on various matters set out in the ED. We wish to initially address Matter 13 in the Preface to the ED and then we make further submissions in relation to the other matters where comments are requested.

13. Application to managed schemes (including MIS)

(a) We do not believe the KMP of the RE should be attributed the status of KMP of the MIS for the reasons outlined in the foregoing pages. Accordingly, we do not agree that when an MIS, or similar scheme, pays a management fee to its RE, the MIS indirectly provides the compensation of the KMP for managing the MIS for the purposes of paragraph 16 of AASB 124.

Investors in an MIS have no power to influence the outcome of the remuneration practices of the RE in respect of its KMP. This is so, notwithstanding that those KMP are used by the RE to fulfil the RE's obligations to the MIS. This is, in essence, no different to any service provider to the MIS that is paid a fee by the RE where the remuneration paid to the KMP of that service provider (eg a custodian) is beyond the control of the RE.

(b) For the reasons stated previously, we do not agree that the KMP of an RE which is responsible for MIS that are disclosing entities should be attributed as the KMP of the MIS and subject to the same disclosure regime in the financial reports of those MIS as all other disclosing entities in paragraphs Aus25.1 to Aus25.7.3. There is no link between remuneration paid to individuals in these circumstances and the management fee paid by the MIS. We consider that there should be fewer disclosures, perhaps only those required by paragraphs 1 to 22 of AASB 124 (noting our comments in the next paragraph).

(c) We do not agree that the KMP of a MIS are among the individuals paid by the responsible entity (or another entity that provides services to the responsible entity). The purpose of identification of individuals as KMP and the requirement to disclose their total remuneration as set out in paragraph 16 of AASB 124 is premised on their remuneration having a direct impact on the financial position and profit and loss of the MIS, with the inference that the structure and amount of their compensation are major drivers in the implementation of the business strategy of the MIS. This is not the case for the vast majority of MIS who have outsourced operational functions of the MIS eg RE/Trustee, custody, accounting and administration, unit pricing etc and who have a defined investment strategy independently set by the RE without regard to the remuneration practices it has in place for its own KMP

Indeed, disclosures of KMP remuneration as presently required under the ED have the capacity to place significant strain on the relationships of the parties and raise possible privacy concerns.

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The comments which follow on specific matters raised in the preface to the ED are not provided in respect of MIS in particular but rather are of a broad nature in respect of reporting entities generally.

1. Proposal to remove parent relief from AASB 124

Removing the parent relief from AASB 124 will be inconsequential. In many cases, the KMP of the parent will be the same as the KMP of the group.

2. Scope of AASB 124 – applied by non-corporate for-profit entities?

Having regard to our earlier comments on Matter 13, we have no objection to AASB 124 applying to non-corporate for-profit entities..

3. Amalgamation of AASB 1046 with AASB 124

We agree that the quality and clarity of AASB 1046 disclosures will not be detrimentally affected by amalgamating AASB 1046 with AASB 124.

4. Use of the term KMP and removal of definitions of specified director, executive and specified executive

While some members support the proposal to use the term KMP and remove the definitions of specified director, executive and specified executive, other members do not agree on the basis that:

- There is no 'maximum number' of KMP to be listed in the reports, and the KMPs are described as "those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity". The potential disclosure for a wider group of executives could make reporting extremely cumbersome and reveal competitor sensitive information. We consider that if any reporting was to be included for specified directors and executives, then the definition for KMP needs to be clarified to ensure it only extends to a limited group of executives.
- Some reporting entities outsource the responsibility for planning, directing and controlling its activities to one or more external entities. In these cases, we consider that the reporting entity does not have any KMP or, that a corporate entity is fulfilling the role of KMP under a management agreement.

5. Subtotals for compensation and loans for directors and non-director KMP

We agree with the deletion of the requirement to disclose sub totals for compensation and loans for directors and non-director KMP, as it simplifies the existing disclosure.

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6. Former KMP

We agree with the proposal to delete the requirement to disclose transactions with former KMP and directors.

7. Prescribed Benefits

We fully support the deletion of separate disclosure for prescribed benefits in 5 categories of compensation as it simplifies disclosure. For the value that such disclosure provides, we should endeavour to simplify and summarise information as much as possible.

8. Entities that have to disclose details of KMP

We believe the AASB has to take into account the views of its members and consider the nature of the information contained in submissions received to determine whether providing such descriptive information will be relevant and add value to the investors' decision making.

9. Incorporation of section 300A(1)(ba) into AASB 124 paragraph Aus25.3

We do not agree to retain the current "catch-all-other" compensation disclosure requirement from AASB1046 into AASB124, as we believe that all compensation is required to be disclosed under paragraph Aus 25.2.

10. Should "other transactions" disclosures in paragraphs Aus25.3 to Aus25.7 be by individual director when the disclosures in paragraph 18 are disaggregated into "KMP of the entity or its parent" and "other related parties"?

We believe that the AASB has to take into account the views of its members and consider the nature of the information contained in submissions received to determine whether providing such information will be relevant and add value to the investors' decision making.

11. Proposal to delete all Appendices to the ED when issuing the final revised AASB 124.

We agree that Annexure 1 of the ED is appropriate however we have included as Annexure 3 the recommended disclosure. We propose that the illustrative appendices act as guidance to the industry rather than mandatory disclosures.

12. Transitional provisions

Transitional provisions are not included in ED143 for the disclosures required by paragraphs Aus25.1 to Aus25.7.3. Given the difference in definitions between specified directors & specified executives (disclosure requirement of AASB 1046) and the KMP (disclosure requirement of ED143), there could be considerable practical difficulties in obtaining the information for the comparative year where the KMP as defined by the ED are different to the specified directors & specified executives as defined by AASB 1046.

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We recommend the inclusion of transitional provisions in ED 143 to avoid incomparable and misleading financial reports in situations considered outside the control of disclosing entities.

13. Previously addressed on page 3.

14. Other disclosure requirements

We do not propose to add any other disclosure requirements. As stated previously, we do not consider the disclosure of Directors and KMP Remuneration to members of managed investment schemes is currently useful in the prescribed format in AASB1046 or AASB124.

15. Proposals in best interest of the Australian economy

It would seem that the proposed standard is not consistent with standards in other jurisdictions such as the UK the US and the EU. Because of this inconsistency there is serious potential for confusion among international investors as to the nature of the costs being borne by Australian funds which would be to the detriment of Australian funds and the Australian economy.
Individual remuneration disclosure also has the potential to put Australia in an anti-competitive position for competing to attract and retain talented individuals to work in the industry as compared to other jurisdictions where such disclosures are not required.

In submitting this response to the ED on behalf of its members, IFSA recognises the importance of the AASB's role and the Standard setting process in Australia. We are also very supportive of enhanced disclosure where it is directly relevant to the financial statements of an entity and enables investors and users to make informed investment decisions about that entity.

We, together with industry experts, would be pleased to meet with you to further discuss these issues and assist AASB in finalising this Standard so that it operates in a meaningful way and achieve its stated aims and objectives. Please do not hesitate to contact Brian Lacey (02) 8235 2528 or myself on (02) 8235 2515 if you require additional information.

Yours sincerely

Richard Gilbert
Chief Executive Officer

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ANNEXURE 1

Background & Commercial Understanding

The Managed Investments Act (**MIA**) implemented a single responsible entity model for the management arrangements of investment schemes. The MIA clearly articulates that the governance responsibilities rest with the Responsible Entity (**RE**) of a Scheme. It does this by imposing various reporting and governance requirements on the RE including,

- the need to have clearly described to the investor of a managed investment scheme (**MIS**), the basis of charging management fees and other recoverable expenses; and
- the need to establish a formal structure that oversees the compliance with regulatory requirements including establishing a Compliance Committee.

Under this model, investment schemes are charged a management fee by the RE for the services provided. In turn, the RE must meet all necessary costs to manage the MIS and comply with fiduciary and governance obligations (apart from those costs for which the RE has a right of indemnity against MIS assets under the scheme constitution or at general law). It is the RE who must bear the cost of those governance requirements, not the MIS or the investors in the MIS.

This contrasts to the "internal management" model used by some investment schemes that employ salaried officers and employees to handle their portfolio management. This internal management model is much less common, although in recent times a number of property investment schemes have converted to this arrangement. For the purposes of this paper we recognise this Standard may well apply to these internally managed schemes.

To assist in understanding why the remuneration of Directors and Executives of an RE is not relevant to the MIS or its investors we have set out some comments on the commercial nature of the relationship between the RE and the MIS:

- Unitholders do not have the scope or authority to influence the remuneration of directors or executives of the RE. Any authority for compensation is exercised in the approval of the RE's fees. Accordingly, there is a "disconnect" between the relevance and potential misinterpretation of the remuneration information by unitholders (i.e. user of the information) and the way they effectively "control" Directors/Executive remuneration.

- The basis and circumstances on which the RE management fee is charged, is the principal focus for the unitholder, and is disclosed in the financial statements. In some cases the RE can earn a performance fee where the scheme outperforms benchmarks set. In the cases where this can be earned the performance fee is designed to ensure that the RE revenue is tied to the performance of the investors' underlying investment.

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- Directors and Executives of an RE are often employed by a parent entity in a larger financial services organisation. It is this parent entity that has the authority over the quantum and structure of the remuneration packages.

- External director fees for externally managed schemes are compensated directly by RE. Unitholders have no ability to influence the level of this compensation.

- Directors / Executives remuneration cannot be charged directly nor is it related directly to the individual MIS. In many cases an RE has responsibility for many MIS and the same entity may also manage private mandates on behalf of wholesale investors. Remuneration to the Directors or Executives of an RE does not increase proportionally to the number of MIS. Accordingly, disclosure of total compensation is misleading, as there is no direct relationship between their remuneration packages and the underlying MIS size or performance.

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ANNEXURE 2

Lack of relevance of applying ED 143

Examples of the lack of relevance of ED 143 to managed investment schemes (**MIS**) and the difficulties and additional costs associated with its application are illustrated as follows:

a. *When an entity acts as RE of multiple MIS*

Where an entity is the RE of multiple MIS, there is to be an allocation of the remuneration paid to the directors and executives such that the amount of remuneration for managing each scheme is identified. In certain situations this may lead to the disclosure of a nominal and immaterial amount of remuneration for each director for each fund. In the media release dated 21 June 2004, Professor Boymal commented that "if a Responsible Entity decides it is impossible to allocate remuneration to specified directors and specified executives on a meaningful basis, then it should make the same (full) disclosure of their remuneration in each MIS's financial report accompanied by an appropriate description of its unallocated nature."

No further guidance has been provided as to how the remuneration of a specified director should be allocated across multiple MIS. While the media release states that the allocation should be "on a meaningful basis", there are a multitude of acceptable allocation methodologies that can be validly adopted as an allocation base. Some of the allocation methodologies we have considered include time spent, number of board meetings attended, relative fund size or a standard charge per hour. The possibility of adopting different allocation methodologies across similar MIS detracts from the comparability of this information and reduces the relevance of the disclosure.

b. *Change in RE during the period*

AASB 1046 requires the disclosure of the remuneration paid to all specified directors and executives. The term "specified director" includes all persons who at *any time* [emphasis added] during the reporting period acted as a director of the entity required to prepare a financial report. When this is applied to MIS that are disclosing entities, the remuneration of *all* directors of the entity, or entities, which acted as RE of the MIS must be disclosed in the MIS's financial report.

Where the RE of a MIS is changed during the reporting period, it is foreseeable that considerable practical and legal difficulties could arise for an entity currently fulfilling the role of RE at the end of a reporting period when trying to access remuneration details from any other entity which previously acted as RE during the period for the purpose of inclusion in the MIS accounts.

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ANNEXURE 3

Example Appendix 1 to the revised AASB 124

MANAGED SCHEMES

Most managed schemes (MIS), whether they are established and regulated under corporation legislation, superannuation legislation or trust law generally, have no employees.

The overall governance of these schemes rests with (usually licensed, incorporated) entities known diversely as "responsible entities", "RSE licensees" or "trustees" (hereafter referred to as Trustees).

Under the constituting document of MIS, fees are able to be negotiated by Trustee for the provision of not only their own services but also the required services of portfolio management, unit registry, administration, bookkeeping, custody or investor relations. If the Trustee does not provide these services itself, it contracts with other (usually also licensed) organisations for the provision of one or more of these services to the MIS. In some cases, no fee is payable by the MIS under certain circumstances for services provided due to the nature and structure of the MIS.

The use of these service providers does not relieve the Trustee of its responsibilities for overall governance of the MIS.

Where the fees paid for Trustee or other services is the subject of a contract between the MIS and the corporate Trustee or other service provider, the KMP of the MIS is deemed to be the licensed corporate entity itself. There is generally no linkage between the amounts paid by the MIS to the Trustee or service provider and its own KMP. Accordingly it is not appropriate to adopt a "look through" approach and attempt to identify and arbitrarily allocate to each MIS an amount of the fees paid by the corporate entity to its KMP to one or more MIS.

In the rare case where the MIS does employ and/or pay for individuals as its own KMP the disclosures required by this standard will need to be considered and complied with where applicable.

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