

ED 200 sub 2

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The Chairman
Australian Accounting Standards Board
PO Box 204
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Dear Chairman

ED 200A: Proposals to Harmonise Australian and New Zealand Standards in Relation to Entities Applying IFRSs as Adopted in Australia and New Zealand

My detailed comments on ED 200A are attached. I am concerned that in several instances no argument has been presented for the proposed amendments, or the argument presented has no substance – platitudes are not an acceptable substitute for reasoned arguments.

If you wish to discuss any of the issues raised in the submission, I can be contacted by email at ian@company-accounting.com.

Best wishes

Ian Langfield-Smith FCPA

Specific Matters for Comment**Questions Applicable to All Proposals**

- (a) Do you agree with the concept of harmonising the reporting requirements in Australia and New Zealand in relation to for-profit entities applying IFRSs as adopted in Australia and New Zealand?

I agree that to the maximum extent possible, that the applications of IFRS-based financial reporting standards in Australia and New Zealand of for-profit entities should be harmonised.

- (b) Should the retained additional disclosures be contained in a separate disclosure standard (as proposed) or contained with each Standard relevant to the topic of the disclosures (which is the current practice)?

The disassociation of disclosure requirement is problematic. If the proposed approach is adopted, then cross-references to the non-IFRS disclosures should be included in the IFRS based domestic standards.

The only advantage that I can see to having a separate domestic disclosure standard is that it would assist those in other jurisdiction in understanding the major differences in disclosures from those required by IFRS.

- (c) Do you agree with the specific proposals in this Exposure Draft regarding alignments, deletions, relocations and relocation and harmonisations? Please provide reasons supporting your response.

I agree with the Australian proposals other than those discussed below. However, it should not be assumed that I agree with the New Zealand proposals that do not correspond to the Australian proposals.

Amendments to AASB 101

Proposed deletions from **AASB 101.AUS7.1**: For the reasons given in my submission on ED 200B I strongly oppose the deletions of the definitions of 'entity' and 'related practice'.

Proposed deletion of **AASB 101.AUS15.1**: The location of this requirement is inappropriate and is necessitated by the absence of a single standard outlining the conventions for the interpretation of accounting standards. It has always been my view that there should be a standard containing codified rules that must be applied in interpreting AASB standards. It would be in such a standard that the Corporations Act context would usefully be applied. In particular, that nothing in an accounting standard can derogate from the Corporations Act requirement that the financial report gives a true and fair view of the matters required by the Act. Also, that except when expressly permitted by the Act, an accounting standards must not conflict with either the Act or the Regulations. It would be here also that there is a general statement that if a term is not defined in a particular accounting standard, but is defined in another accounting standard, that that definition applies to that other accounting standard unless, in all the circumstances, doing so would produce an outcome that is inconsistent with the objectives of that other accounting standard.

Proposed reinstatement of IAS 1.19-22 (proposed **AASB 101.19-22**): I do not support the reinstatement of these requirements. If the AASB decides to reinstate those provisions, then extreme care will need to be taken to avoid confounding the underlying legislative policy. The underlying legislative policy is that financial report preparers must apply accounting

standards, and that non-compliance cannot be justified on the basis that in the particular circumstances, compliance would not result in the financial report providing a true and fair view of the matters required by the Corporations Act. The proposed paragraphs *do not* in any way or form deal with the application of a true and fair view requirement, accordingly, the proposed note to paragraphs 19-22 which refers to a true and fair view override not being applicable under the Corporations Act is ineffective in limiting the scope to those paragraphs.

Also there is an apparent error in the make up on page 19 of ED 200A, according to the latest version of AASB 101 there is **no heading** before paragraph 17, so the heading “*True and fair over-ride*”, is incorrectly included in the ED. There is nothing in the following paragraphs dealing with a true and fair over-ride, so such a heading is misleading. There is no heading before paragraph 17 of IAS 1 (see *IFRS Handbook 2010 (Mandatory)*).

For the reasons in the Appendix to this submission, paragraphs 19-22 can be applied by entities reporting under the Corporations Act since the departure would be mandated by AASB 101, thus there would be no non-compliance with the Act (in particular section 296).

While the proposed paragraphs are probably valid under the Corporations Act, allowing non-application of a particular standard because ‘compliance with a requirement in an IFRS would be so misleading that it would conflict with the objective of financial statements set out in the *Framework*’ would be effectively a backdoor reintroduction of the true and fair override. The potential for abuse of such a provision is so great that the adopting of such a provision without compelling argument is not justified. For entities regulated by the Corporations Act, there would be no hardship in dispensing with this requirement since if there really is a substantive issue management can apply to ASIC for an order varying the application of the problematic provision.

Proposed deletion of paragraph **AASB 101.Aus50.1**: No explanation is given for the deletion of this requirement. While few entities may decide to use a language other than English, it is both **illogical** and **dangerous** to conclude that, for that reason alone, it is appropriate to remove the provision. Removing the provision will give scope for unscrupulous managers to avoid accountability by presenting financial reports in some obscure language. Such a device would be inconsistent with the objectives of general purpose financial reporting and the nature of a general purpose financial report. The ability to use a language other than English would also be contrary to the underlying legislative policy and must not be allowed.

Proposed deletion of paragraph **AASB 101.Aus138.61**: No explanation is given for the deletion of this requirement. The fact that its deletion may result in some entities making reduced disclosure cannot, of itself, be used to justify the deletion of the requirement. The introduction of this requirement followed an exhaustive due process, which provided cogent argument why such disclosures are necessary.¹ Before dispensing with these requirements, the Board must give cogent reasons why those arguments should no longer be accepted. I do not support the deletion of this requirement.

Proposed deletion of **AASB 107.Aus20.1**: No explanation is given for the deletion of this requirement. The fact that its deletion may result in some entities making reduced disclosure cannot, of itself, be used to justify the deletion of the requirement. Presumably there were sound policy reasons for the introduction of this requirement, and the Board should have explained why those policy considerations are no longer so compelling that mandatory disclosure is no longer necessary. I do not support the deletion of this requirement.

¹ It is my recollection that this proposal originated with the NCSC green paper dealing with reforms to the financial reporting requirements, however it may go back to the Eggleston Report.

Proposed deletion of **AASB 121.Aus38.1**: No explanation is given for the deletion of this requirement. The fact that its deletion is not expected to affect practice is not of itself a sufficient or compelling reason. My recollection is that this provision was inserted in response to ASIC stating that under the Act the financial report can only use one presentation currency. The inclusion of this requirement will assist financial report preparers in avoiding inadvertent non-compliance with the Act, and, accordingly, it should be retained.

Proposed addition to **AASB 134.1**: I do not support the addition of the words commencing with "The International Accounting Standards Committee ...". Such exhortations have no place in an accounting standard. Also, that body no longer exists, so the statement is nonsense. It should be the International Accounting Standards Board or the International Financial Reporting Standard Foundation (or IFRS Foundation).

- (d) Which of the disclosures proposed to be included in separate disclosure standards AASB ED 200B/FRSB ED 122 should be required of entities applying differential reporting requirements, namely:
- (i) in Australia, the proposed Reduced Disclosure Requirements for general purpose financial statements; and
 - (ii) in New Zealand, qualifying entities. Please provide reasons for your response.

Since this question predominantly relates to the content of ED 200B, my comments on this proposal are in my response to ED 200B.

- (e) Are there any regulatory issues or other issues arising in the Australian or New Zealand environment that may affect the implementation of the proposals? Please provide reasons for your response.

The failure to provide compelling reasons, or indeed any plausible reason, for some of the proposals is an abuse of due process and involves the risk of bringing the standard setting process into disrepute.

- (f) Do you consider that the proposed amendments are in the best interests of users of general purpose financial statements of entities in Australia and New Zealand? Please provide reasons for your response.

This question is addressed when considering individual proposals.

Questions Applicable to Specific Proposals

- (a) The Boards note that the proposed auditor remuneration disclosure requirements in AASB ED 200B / FRSB ED 122 are simplified and do not include the existing requirement in AASB 101 *Presentation of Financial Statements* in respect of 'related practice'. Do you agree with the Boards' proposals?

Since this question predominantly relates to the content of ED 200B, my comments on this proposal are in my response to ED 200B.

(b) In relation to the proposed deletion of paragraph Aus7.1 of Interpretation 113 *Jointly Controlled Entities – Non-monetary Contributions by Venturers*, if this causes an entity to change its accounting policy, do you agree that it should be applied retrospectively?

I have no view on this matter.

Other Questions

Although not dealt with in this Exposure Draft, the AASB is taking the opportunity to seek constituent views on whether it should retain disclosure requirements (AASB 124 *Related Party Disclosures* paragraphs Aus25.2 to Aus25.6, Aus25.7.1 and Aus25.7.2) related to the compensation of individual key management personnel of managed investment schemes that are disclosing entities.

As a matter of logic, the form of an entity should not affect its disclosure obligation unless they relate superficially to some artefact of their legal form. Therefore, regulatory neutrality requires that all disclosing entities be required to make the same disclosures about these matters. These provisions were directed to removing an anomaly in reporting by disclosing entities and for this reason they must be retained.

APPENDIX

Proposed paragraphs 19-20 not inconsistent with Corporations Act

In this appendix, an explanation is given why the proposed paragraphs 19-20 would not be inconsistent with the Corporations Act.

The Corporations Act does not include a provision that allows preparers to depart from the requirements of an accounting standard on the basis that compliance would produce a financial report that fails to give a true and fair view of the requisite matters. When force-of-law accounting standards were first introduced, the Companies Act and Codes included such an override, however, due to widespread abuse of that provision it was repealed. This means that when reporting under Part 2M of the Corporations Act, an entity must comply with all accountings standards unless the provisions of the standard are inconsistent with either the Act or the Regulations. (For present purposes, the modification of the application of standard by ASIC under discretionary powers is irrelevant.)

The obligation to comply with accounting standards and the true and fair view requirement are imposed by the following provisions of the Act:

296 Compliance with accounting standards and regulations

(1) The financial report for a financial year must comply with the accounting standards.

Small proprietary companies

(1A) Despite subsection (1), the financial report of a small proprietary company does not have to comply with particular accounting standards if:

- (a) the report is prepared in response to a shareholder direction under section 293; and
- (b) the direction specifies that the report does not have to comply with those standards.

Small companies limited by guarantee

(1B) Despite subsection (1), the financial report of a small company limited by guarantee does not have to comply with particular accounting standards if:

- (a) the report is prepared in response to a member direction under section 294A; and
- (b) the direction specifies that the report does not have to comply with those standards.

Further requirements

(2) The financial report must comply with any further requirements in the regulations.

297 True and fair view

The financial statements and notes for a financial year must give a true and fair view of:

- (a) the financial position and performance of the company, registered scheme or disclosing entity; and
- (b) if consolidated financial statements are required—the financial position and performance of the consolidated entity.

This section does not affect the obligation under section 296 for a financial report to comply with accounting standards.

Note: If the financial statements and notes prepared in compliance with the accounting standards would not give a true and fair view, additional information must be included in the notes to the financial statements under paragraph 295(3)(c).

Paragraph 295(3)(c) provides:

Notes to financial statements

(3) The notes to the financial statements are:

- (a) disclosures required by the regulations; and
- (b) notes required by the accounting standards; and
- (c) any other information necessary to give a true and fair view (see section 297).

The question becomes is the combined effect of paragraph 295(3)(c), subsection 296(1) and 297 prohibits the a departure from accounting standards when such a departure is otherwise within the scope of the proposed AASB 101.19? In my view, these provisions do not prevent

the AASB from making a standard that allows non-compliance with some aspects of AASBs in particular circumstances. The fact that that circumstance is the inability of the standards in question to result in meeting the objectives in the framework (and presumably simultaneously fail to give a true and fair view of the requisite matters) is irrelevant.

In this context, we need to consider the nature of the AASB's standard making powers. Firstly, we must consider sections 334 and 335 of the Act, which provide:

334 Accounting standards

AASB's power to make accounting standards

- (1) The AASB may, by legislative instrument, make accounting standards for the purposes of this Act. The standards must not be inconsistent with this Act or the regulations.
- (4) An accounting standard applies to:
 - (a) periods ending after the commencement of the standard; or
 - (b) periods ending, or starting, on or after a later date specified in the standard.
- (5) A company, registered scheme or disclosing entity may elect to apply the accounting standard to an earlier period unless the standard says otherwise. The election must be made in writing by the directors.

335 Equity accounting

This Chapter (and, in particular, the provisions on consolidation of financial statements) does not prevent accounting standards from incorporating equity accounting principles.

It is submitted that proposed AASB 101.19 is not inconsistent with the provisions of the Act, although would arguably confound the underlying legislative policy (see discussion below).

While the Act does not expressly address the question of differential application of accounting standards, Division 4 of Part 12 of the ASIC Act does so. The relevant provisions are reproduced below.

Division 2—Accounting standards

228 Purposive interpretation of standards

Objects of this Part

- (1) In interpreting an accounting standard made or formulated by the AASB, a construction that would promote the objects of this Part is to be preferred to a construction that would not promote those objects.

Note: Section 224 states the main objects of this Part.

Purposes or objects of particular standard

- (2) In interpreting an accounting standard made or formulated by the AASB, a construction that would promote a purpose or object of the standard (to the extent to which it is not inconsistent with the objects of this Part) is to be preferred to a construction that would not promote that purpose or object. This is so even if the purpose or object is not expressly stated in the standard.

229 Generic and specific standards

- (1) Accounting standards made or formulated by the AASB may:
 - (a) be of general or limited application (including a limitation to specified bodies or undertakings); and
 - (b) differ according to differences in time, place or circumstance.
- (2) In making and formulating accounting standards, the AASB:
 - (a) must have regard to the suitability of a proposed standard for different types of entities; and
 - (b) may apply different accounting requirements to different types of entities; and
 - (c) must ensure that there are appropriate accounting standards for each type of entity that must comply with accounting standards.

234 Validity of accounting standards

A failure to comply with this Division in relation to the making of an accounting standard does not affect the validity of the standard.

I believe that a standard such as the proposed AASB 101.19 would merely be one example of the situation comprehend by subsection 229(1) of the ASIC Act. Accordingly, the footnote to

the proposed paragraphs 19-22 is, I believe, ineffective in limiting the scope of the proposed AASB 101.19. There are two ways of overcoming this problem. The scope of the proposed AASB 101.19-22 must be limited; this could be done either in the application section of the standard or by having an AASB 101.Aus19 which limits the scope in an appropriate manner. One possible wording would be:

Aus1.X Paragraphs 19 to 22 of this standard do not apply:

- (a) entity's required to prepare a financial report under Part 2M.3 of the Corporations; or**
- (b) to entities required by legislation other than the Corporations Act to prepare a financial report that complies with accounting standards made by the Australian Accounting Standards Board and the relevant legislation does not expressly allow non-compliance with accounting standards because in the particular circumstances of the entity:**
 - (i) compliance would result in the financial report failing to give a true and fair view of the requisite matters; or**
 - (ii) compliance would conflict with the objectives of financial statements specified in the legislation.**

While I suspect that paragraph (a) will cover most legislative schemes, there may be some schemes that have an override such as envisaged in paragraph (b).