



COLIN'S

CORNER

Curing the blight of special-purpose financial statements

Lodgement of special-purpose financial statements has been a blight on quality financial reporting for decades – a disservice to users and legislative compliance.

The reporting-entity concept has been used and abused since its introduction in the 1990s as it is basically a self-assessment. This situation appears likely to change soon.

Previous attempts have been made by the Australian Accounting Standards Board to require entities that lodge statements with regulators, such as the Australian Securities and Investments Commission, to prepare general-purpose ones. The attempts stalled.

We have seen only one notable improvement, AASB 1053 *Applications of Tiers of Australian Accounting Standards*. There are still pockets of ignorance on its requirements.

ASIC's regulatory guide 85 *Reporting requirements for non-reporting entities* has been around since 2005. It provides guidance on applying the reporting-entity test and obligations for non-reporting entities, which are required to prepare financial reports in accordance with Ch 2M of the *Corporations Act 2001*, should comply with the recognition and measurement requirements of accounting standards.

For some time now, the AASB has had academic research showing that special-purpose financial reports lodged with ASIC have produced 'variable' reporting – to be kind. The research has also shown that preparers and auditors have scant regard for regulatory guide 85. But there is no agitation for change or robust enforcement of 85.

Two recent developments suggest that this may well change with the AASB's planned approach to the revised IASB conceptual framework and the AASB's discussion paper *Improving Financial Reporting for Australian Charities*. These are reported below.

Is the reporting entity dead? Long live general-purpose financial reports and its various forms, I say.

Watch for developments this year.

INSIDE THIS ISSUE

Financial reporting

- Revising the basis of financial reporting
- Improving financial reporting for charities
- Four ASIC-inspired corporate restatements
- AASB offers materiality guidance
- Four standards amended
- IFRS standards amended narrowly
- Comments sought on three recent standards
- Rationalising licence-fee treatments
- Banksia man fined and banned

Governance

- ACSI releases governance guidelines
- How to manage culture

ASX

- Murray Goulburn entity fined \$650,000
- Murray River Organics fined for continuous-disclosure breaches
- QBE agrees on class-action settlement

Regulation

- Wider investigation of banking sector expected
- Draft regulations on crowd-sourced funding released
- Treasury seeks submissions on 'passport' bill
- Financial-arrangements tax reform delayed
- ACNC update

Fraud and NOCLAR

- Enhancing whistleblower protections
- Former NewSat CEO charged

AFS licensees

- Court winds up land-banking scheme
- ASIC cancels Anquan's licence
- ASIC cancels Wealth First credit licence
- ASIC imposes extra conditions on MyPlanner
- ASIC accepts AIW's enforceable undertaking
- AAT affirms financial-services banning

Ethics

- APESB revises APES 325 *Risk Management for Firms*
- Exposure draft on client monies released
- APESB proposes revisions to APES 225 *Valuation Services*

Audit

- New auditor-rotation rules

Inside GAAP Consulting

- Fourteen GAAPinars to enhance your expertise
- March pop-up masterclass on AASB 15
- Pleasing feedback – thank you
- *NFP Risks and Compliance* newsletter released

Financial reporting

Revising the bases of financial reporting

In adopting the revised *IASB Conceptual Framework* for financial reporting in Australia, the AASB has noted that removing the Australian definition of 'reporting entity' would also remove the ability of an entity required by legislation to prepare special-purpose financial statements.

The AASB has decided to follow a staggered approach to adopting the revised *IASB Conceptual Framework for Financial Reporting in Australia* as follows:

- Stage 1 – applicable for publicly accountable for-profit private sector entities to maintain IFRS compliance, and
- Stage 2 – all other entities.

The board has decided to develop a consultation paper to address the difference between the definition of a 'reporting entity' in the framework (which determines the boundary of what needs to be reported when an entity is required to report, for example, consolidation) and the one in Australian accounting standards. (The latter determines whether general-purpose statements that comply with Australian standards are required.)

As the standards require publicly-accountable for-profit private-sector entities to prepare tier 1 general-purpose financial statements \rightarrow applying all accounting standards \rightarrow the 'reporting entity' concept is irrelevant and the revised framework can be made applicable under stage 1 of the project.

The AASB noted that its framework is also designed to remove self-assessment and to ensure a level playing field.

The board agreed that its preference is to remove the 'reporting entity' concept through regulators, only those entities that should publicly lodge financial statements preparing general-purpose financial statements.

Legislative change may take a while, and, in the interim, the Australian framework is necessary.

Having two conceptual frameworks introduces complexity and is undesirable.

Accordingly, the AASB has agreed that in its consultation paper on the IASB's framework it would highlight that it is an alternative to legislative change. The alternative being the removal of SAC1 *Definition of a reporting entity*.

Amending AASB 1053 *Applications of Tiers of Australian Accounting Standards* to make it clear that an entity that does not have 'public accountability' and is required by legislation to prepare financial statements in accordance with Australian standards must comply with a Tier 2 specified framework.

Two tier-2 options would be proposed -- a reduced-disclosure regime (RDR) and an option based on extending special-purpose requirements in ASIC's regulatory guide 85 using recognition and measurement criteria with disclosures specified in AASB 101 *Presentation of Financial Statements*, AASB 107 *Statement of Cash Flows*, AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*.

Also in the equation would be feedback from users and regulators to include AASB 15 *Revenue from Contracts with Customers*, AASB 124 *Related Party Disclosures* and possibly others, such as the liquidity disclosures in AASB 7 *Financial Instruments: Disclosures*.

The board has also decided to amend the definition of 'publicly accountable' to align with the revised IFRS definition for small-to-medium businesses once the revised framework is issued. It should mean that publicly accountable entities are those that have \rightarrow or are in the process of listing \rightarrow equity or debt instruments, and those that hold assets in a fiduciary capacity.

The board plans to develop paragraphs for the revised framework about NFP entities in the private and public sectors and for-profit, public-sector entities.

Improving financial reporting for charities

An AASB discussion paper *Improving Financial Reporting for Australian Charities* presents options intended to be talking points (rather than recommendations) for stakeholder discussions that might be useful in the commission's legislative review.

The AASB has proposed the following.

Topic	Suggested improvement
Duplicated reporting requirements	Eliminating multiple reporting requirements among the states and territories and the commonwealth. This might be by having only one regulator – the ACNC – to be the 'one-stop shop' and harmonise reporting requirements for charities similar to corporates or establishing consistent criteria and thresholds for public lodgement, reporting and assurance requirements across relevant regulators.
Public lodgement	Regulators to design transparent and objective criteria and thresholds for public lodgement, reporting and assurance requirements. These should require only charities with an appropriate level of economic significance, public interest and external users to lodge publicly financial statements.
General-purpose financial reporting	The AASB to specify financial-reporting requirements for charities required to lodge publicly that are clear and objective, balancing user needs with preparer costs (general-purpose financial reporting).
Special-purpose financial reports	There should be no public lodgement of special purpose financial reports.
Thresholds for lodgement	The criteria and threshold levels for public lodgement should be matched with an appropriate level of specified financial reporting. The greater the level of economic significance, public interest and external users, the greater the level of specified financial reporting, balancing user needs and preparer costs.
Tiers of general-purpose financial reporting	The types of general-purpose financial reporting should be based on the needs of users and the characteristics of particular groups of charities selected from: <ul style="list-style-type: none"> • Full recognition, measurement and disclosure requirements of accounting standards • Full recognition and measurement but reduced-disclosure requirements of accounting standards • Modified recognition, measurement and disclosure (new accounting standard to be developed), and • Cash accounting (new accounting standard and template report consistent with the National Standard Chart of Accounts to be developed). <p>The paper presented four illustrative financial-reporting frameworks that take the criteria and thresholds considered to match with the types of general-purpose financial statements for each identified threshold.</p>
Levels of assurance	The Australian Auditing Standards Board (AUASB) should work with regulators to specify the appropriate level of assurance and the appropriate skills for the 'assurer' to match with the type of general-purpose financial reporting. The types of assurance engagements should be selected from audit, review, other assurances, and agreed-upon procedures.

Four ASIC-inspired corporate restatements

ASIC noted the announcement by Sequoia Financial Group Ltd that it will reduce both its revenue and hedging expenses for the year ended 30 June 2017 by \$9 million. The restatement does not affect the reported profit before tax.

ASIC raised concerns with Sequoia about its treatment of revenue in the financial report for the year ended 30 June.

ASIC noted the decision by Intrepid Mines Limited (Intrepid) to make a \$16.1 million impairment charge against its Zambian mining properties in its financial report for the half-year ended 30 June.

Intrepid announced a subsequent sale of its Zambian assets for \$4.75 million plus \$1 million deferred contingent payments on 12 December, resulting in a further loss. ASIC had raised concerns about the value of these assets in Intrepid's financial report for the year ended 31 December 2016.

ASIC noted the decision by Medusa Mining Limited to derecognise exploration and evaluation assets of \$US56 million in its financial report for the half-year ended 31 December. Medusa changed its accounting policy to expense all exploration and evaluation amounts as incurred.

The commission raised concerns about the recoverable amount of Medusa's exploration and evaluation assets in its financial report for the year ended 30 June. The assets had not been taken into account when testing for impairment.

ASIC noted the decision by Genworth Mortgage Insurance Australia Limited to change the recognition of premium revenue in its financial report for the year ending 31 December.

Genworth has announced that the change will reduce net earned premium by about \$40 million and the figure for the 2017 year is expected to be about 17-19 per cent lower than its 2016 counterpart. Previous guidance was for a 10 to 15 per cent reduction. The change affects the recognition of revenue for the fourth quarter of 2017 and subsequent reporting periods. The unearned premium liability at 30 September remained unchanged.

The commission had raised concerns about the basis used by Genworth to recognise premium revenue in financial reports for the year ended 31 December 2016 and the half-year ended 30 June 2017 having regard to the pattern of historical claims in earlier years.

AASB offers materiality guidance

Directors, trustees and others responsible for the preparation of financial statements make continuous judgements about materiality.

AASB practice statement 2 *Making Materiality Judgements* provides practical guidance and examples that might help in discussions with auditors and regulators. The statement includes examples that are specific to not-for-profit private and public-sector entities.

Four standards amended

The AASB has issued four amending standards. They are:

- AASB 2017-5 *Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*: The effective date of the amendments made by AASB 2014-10 has been deferred to annual periods beginning on or after 1 January 2022 and there are numerous editorial corrections. Effective for annual periods beginning on or after 1 January 2018
- AASB 2017-6 *Amendments to Australian Accounting Standards – Prepayment Features with Negative Compensation*: Narrow-scope amendments to AASB 9 *Financial Instruments* permit entities to measure at amortised cost or fair value through other comprehensive income particular financial assets. Effective for annual periods beginning on or after 1 January 2019, earlier application permitted
- AASB 2017-7 *Amendments to Australian Accounting Standards – Long-term Interests in Associates and Joint Ventures*: Narrow-scope amendments to AASB 128 *Investments in Associates and Joint Ventures* clarify that an entity is required to account for long-term interests in an associate or joint venture using AASB 9 *Financial Instruments* before applying the loss allocation and impairment requirements in AASB 128. Effective for annual periods beginning on or after 1 January 2019, earlier application permitted, and
- AASB 1048 *Interpretation of Standards*: An up-to-date listing of Australian interpretations. Effective for annual periods ending on or after 31 December.

IFRS standards amended narrowly

The International Accounting Standards Board has issued *Annual Improvements to IFRS Standards 2015-2017 Cycle*, which makes narrow-scope amendments to four IFRS Standards.

Annual improvements are part of the board's process for maintaining standards and amendments made as part of the strategy either clarify the wording in a standard or correct relatively minor oversights and conflicts among standards.

The amendments made during the 2015-2017 cycle are:

Amended Standard	The amendments clarify that:
IFRS 3 <i>Business Combinations</i>	A company remeasures its previously held interest in a joint operation when it obtains control of the business.
IFRS 11 <i>Joint Arrangements</i>	A company does not remeasure its previously held interest in a joint operation when it obtains joint control of the business.
IAS 12 <i>Income Taxes</i>	A company accounts for all income tax consequences of dividend payments in the same way.
IAS 23 <i>Borrowing Costs</i>	A company treats as part of general borrowings any borrowing originally made to develop an asset when the asset is ready for its intended use or sale.

The amendments are effective from 1 January 2019, early application permitted.

Comments sought on three recent standards

AASB-issued exposure draft 284 *Recent Standards – Reduced Disclosure Requirements* proposes to provide disclosure concessions for tier-2 entities for AASB 16 *Leases*, AASB 1058 *Income of Not-for-Profit Entities* and AASB 1059 *Service Concession Arrangements: Grantors*. Comments are sought by 31 March.

Rationalising licence-fee treatments

Licence fees make up a big portion of public-sector revenue, but it appears as if their accounting treatment under AASB 15 *Revenue from Contracts with Customers* is unclear.

An AASB-released exposure draft (283) *Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Public Sector Licensors* aims to help reduce diversity in treatments.

ED 283 provides amendments, guidance and illustrative examples based on AASB 15 that aim to assist public-sector licensors to:

- Distinguish licences from taxes
- Determine the nature of licences (for example, those that are leases or contain a lease, those that are not distinct from other goods or services, intellectual property or non-IP licences) and identify relevant accounting requirements, and

- Understand performance obligations relevant to public-sector licence arrangements.

The draft also suggests practical expedients for short-term and low-value licences.

Banksia man fined and banned

The Federal Court has ordered Patrick John Godfrey, former managing director of Banksia Securities Limited (in liquidation, receivers and managers appointed) to pay a pecuniary penalty of \$25,000 and be disqualified from managing corporations for five years.

The court was satisfied with an agreed statement of facts between ASIC and Mr Godfrey, and declared that Mr Godfrey had contravened section 344(1) of the Corporations Act in that:

- Banksia's financial reports for the financial years ending 30 June 2011 and 30 June 2012, and its half-year financial report for 31 December 2011 did not comply with relevant accounting standards, nor did

they give a true and fair view of Banksia's financial position and performance given the amount disclosed for the provision of bad and doubtful debts was inadequate

- Mr Godfrey failed to have or obtain a sufficient understanding of the requirements of the relevant accounting standard, AASB 139 *Financial Instruments: Recognition and Measurement*, for the recognition and assessment of the impairment of mortgage investments made by Banksia
- Mr Godfrey's recommendations as to the appropriate amount of provision for bad and doubtful debts resulted in Banksia's financial reports failing to give a true and fair view of the company's financial position, and
- Mr Godfrey failed to take all reasonable steps to secure compliance by Banksia with AASB 139.

Justice Moshinsky found that the penalty and disqualification order ASIC and Mr Godfrey had jointly submitted were appropriate.

ASIC commissioner John Price said: 'The importance of ensuring that the financial accounts of a company are reported in accordance with the law by complying with the correct accounting standards is essential to provide assurance and market confidence. Mr Godfrey fell short of the standards required of him in this case.'

Banksia was a Kyabram-based unlisted public company involved in raising money from the public by issuing debentures and lending the funds raised to borrowers for property investment and development purposes. As at October 2012, Banksia had raised about \$663 million from 15,622 investors.

On 11 June 2014, ASIC accepted an enforceable undertaking from Warren John Sinnott, Banksia's former auditor, under which he is prevented from practising as a registered auditor until 10 June 2019.

Governance

ACSI releases governance guidelines

The Australian Council of Superannuation Investors (ACSI) has articulated its members' expectations about governance at listed Australian companies.

ACSI CEO Louise Davidson said: 'With AGM season almost over, it's important to reflect on governance standards for the coming year and to identify issues where change is needed. Our guidelines are a clear statement by a significant group of investors about their expectations. They offer a unique insight into the issues of greatest material concern to [big] investors and how they reach their voting decisions.'

ACSI's guidelines express the issues the council focuses on in its engagement work and the factors considered in determining its voting recommendations.

Ms Davidson said: 'Companies that are well-governed and that effectively manage their environmental and social impacts are more sustainable over the long term.'

The guidelines state that directors should monitor environmental, social and governance (ESG) issues, assess their materiality and disclose any financial impacts on the company.

They provide practical examples of ESG supervision (including sources of investment risk and opportunities) on four key themes: climate change, labour and human rights, corporate culture, and tax disclosure.

An important resource, the guidelines are an ACSI first.

Other new or expanded topics include: gender diversity, shareholder resolutions, chairperson workload, and remuneration.

How to manage culture

Regulators often warn that listed and non-listed companies lacking good corporate culture will fail investors and stakeholders.

As a follow-up, key industry bodies have collaborated to produce a guide on managing culture.

The Ethics Centre, Chartered Accountants ANZ, the Governance Institute of Australia and the Institute of Internal Auditors Australia have produced *Managing Culture – A good practice guide*.

Research has shown that companies that have a good culture perform better than companies that do not. The guide outlines how each group in an organisation can contribute to

a good culture, the first step of which is to create an ethical framework that provides guidance on decisions and an appropriate 'tone from the top'.

Governance Institute of Australia CEO Steven Burrell said: 'While having an integrated governance and risk-management framework is important, unless an organisation establishes a culture that promotes risk awareness [in] everything it does, it is unlikely to achieve its objectives.'

'Governance and risk management must be at the core of an organisation's culture.'

The publication argues that the role of boards is to determine the purpose, values and principles of a company, that the CEO and senior management have the responsibility for implementing the desired culture and that personnel in human resources, ethics, compliance and risk functions all have a role in embedding values and ethics.

ASX

Murray Goulburn entity fined \$650,000

The Federal Court has fined MG Responsible Entity Limited (MGRE) \$650,000 for contravening continuous-disclosure obligations.

It has also directed that MGRE pays ASIC's legal costs.

MG Unit Trust was officially admitted to the Australian Securities Exchange list on 3 July 2015. A special-purpose funding vehicle, the trust was set up by Murray Goulburn and issues units to external investors. MGRE is a wholly-owned subsidiary of MG and the responsible entity of the MG Unit Trust.

The court found that MGRE contravened its disclosure obligations under section 674(2) of the Corporations Act on and from 22 March 2016 until 27 April by failing to notify the ASX that circumstances had arisen making it unlikely that Murray Goulburn would achieve the following:

- Available weighted average southern milk region farmgate milk price for the financial year ending 30 June 2016 of \$5.60 per kilogram of milk solids, and
- Full-year net profit after tax for the financial year ending 30 June 2016 of about \$63 million, as stated by MG and MGRE in their ASX announcements dated 29 February 2016 entitled *Murray Goulburn – Half Year Financial Results News Release and Murray Goulburn – Half Year Financial Results Presentation*.

ASIC issued proceedings against MGRE on 16 November. MGRE admitted the contravention in a statement of agreed facts and admissions and the parties filed joint submissions for a declaration and a civil penalty.

In handing down her judgment, Justice Davies said: 'The penalty is towards the higher end of the statutory maximum but a penalty towards the higher end is warranted, reflecting the gravity of the contravention, the market impact and prejudice caused by the contravention, the involvement of the senior level of management in the contravention and failure of governance, and the inadequacy of MGRE's compliance policies at the time and the duration of the contravention.'

ASIC will also order MGRE, in accordance with terms of settlement, to pay a contribution towards ASIC's investigation expenses of \$50,000 under s91 of the ASIC Act.

ASIC commissioner Cathie Armour said: 'If an entity has previously given a profit forecast to the market and that subsequently changes causing its profit forecast to differ from that guidance by a material amount, it is crucial to inform the market immediately [so] that investors are apprised with up-to-date information.'

Murray River Organics fined for continuous-disclosure breaches

Murray River Organics Group Limited has been fined \$33,000 after ASIC issued an infringement notice for an alleged failure to comply with continuous-disclosure obligations.

The notice was issued after an ASIC investigation into Murray River's announcement on 4 May that, due to seasonal factors, its earnings expectations for the 2017 financial year were materially below the forecasts made in its prospectus of 8 December 2016. The company provided the following revised forecasts:

- Revenue would be \$10 million (12.8 per cent below a forecast of \$78 million)
- EBITDA would be \$12.5 – \$13.5 (21.4–15.1 per cent below forecast of \$15.9 million), and
- NPAT would be \$4.2–\$4.9 million (36.4–25.8 per cent below forecast of \$6.6 million).

ASIC alleged that, by 26 April 2017, Murray River Organics was aware that its revenue, EBITDA and PBT for the 2017 financial year were likely to be materially below the forecasts contained in its prospectus, although the extent of the divergence was uncertain.

The commission alleges that by failing to inform the ASX on 26 April that its revenue, EBITDA and PBT for the 2017 financial year was likely to be materially below the forecasts contained in its prospectus, Murray River Organics was in breach of continuous-disclosure obligations between 26 April and 4 May.

ASIC commissioner Cathie Armour said: 'Listed companies must immediately notify the ASX of information that a reasonable person would expect to have a material effect on the price or value of the company's securities, whether that information is positive or negative for the company.'

'Where a company experiences a material variation in forecast financial guidance, the company must carefully consider whether the market needs to be informed and, if so, provide this information promptly and without delay, or seek a trading halt pending confirmation of the extent in variation.'

QBE agrees on class-action settlement

QBE Insurance Group Limited reached an agreement to settle a shareholder class action begun by Money Max Int Pty Ltd on 9 September 2015 in the Federal Court on behalf of a group of shareholders who acquired an interest in QBE securities between 20 August and 6 December 2013.

QBE has agreed to pay \$132.5 million in full and final settlement of the proceedings, including interest and the applicant's costs. The settlement is without admission of liability by QBE and is subject to court approval.

Shareholders had alleged that QBE had engaged in false and misleading conduct and breached continuous-disclosure obligations ahead of the downgrade. They claimed to have purchased shares at an inflated price due to QBE's alleged misleading conduct.

The settlement is the third-largest shareholder claim in Australian history, following class actions against shopping centre owner Centro and its auditor PwC (\$200 million) in 2012 and pokies-machine maker Aristocrat (\$144.5 million) in 2008.

Regulation >

Wider investigation of banking sector expected

Former High Court judge Kenneth Hayne will head a broadened royal commission into alleged misconduct in Australia's banking, superannuation and financial-services sector.

The commission will investigate the conduct of insurers, superannuation trustees, holders of Australian financial-services licences and intermediaries, such as mortgage brokers.

Intermediaries between borrowers and lenders have been added following the government's consultation with the commissioner on draft terms of reference.

The commission will examine allegations of misconduct or conduct that falls below community expectations, focusing on identifying ways to ensure that Australia's financial system continues to work efficiently, effectively and in the interests of consumers.

Commissioner Hayne is expected to submit an interim report no later than 30 September and a final one no later than 1 February 2019.

Draft regulations on crowd-sourced funding released

The Federal Government has released an exposure draft providing further detail on the extension of crowd-sourced funding (CSF) to proprietary companies.

Draft regulations also make refinements to the existing CSF regime for public companies, adding flexibility to the structure and contents of CSF offer documents.

Relevant disclosures are outlined, and minor changes clarify the operation of the existing rules.

The draft regulations provide that the exemption from takeover rules for CSF

proprietary companies will be limited to those that are eligible to make a CSF offer, as it would be inappropriate for proprietary companies that out-grow CSF to continue to be exempt from takeover rules in perpetuity.

The draft regulations also modify unsolicited-offer provisions in the Corporations Act, making them more flexible for proprietary companies with CSF shareholders.

All interested parties are invited to lodge a submission by 2 February.

Treasury seeks submissions on 'passport' bill

The Federal Government is seeking submissions on a draft Corporations Act (Asia Region Funds Passport) Bill and related explanatory materials.

The 'passport' is a common framework of coordinated regulatory supervision to facilitate cross-border issuing of managed-investment funds. Australia, Japan, Korea, New Zealand and Thailand are signatories to the passport's memorandum of cooperation, which took effect on 30 June 2016.

Schedule 1 of the exposure draft is a revised chapter 8A (previously released for consultation in August) and includes minor revisions and new provisions to:

- Address the treatment of notified foreign passport funds
- Ban such funds from issuing debentures in Australia, and
- Require such funds to provide various reports to members in Australia.

Schedule 2 would amend the Corporations Act (2001) to provide the disclosure, financial reporting, distribution and licensing of notified foreign passport funds, as well as other amendments.

Treasury is seeking submissions by 25 February.

Financial-arrangements tax reform delayed

Simplification of the Taxation of Financial Arrangements (TOFA) rules was announced in the 2016-17 federal budget.

TOFA rules set out the amount and timing of gains and losses on financing transactions for tax purposes. These changes are an important regulatory reform that would deliver significant compliance-cost savings and greater certainty for taxpayers.

The amended rules were announced to apply to income years commencing on or after 1 January.

Legislation implementing this proposal has yet to be released.

The government will defer changes to TOFA until after royal assent.

ACNC update

The ACNC has:

- Issued a statement on deductible-gift-recipient reforms
- Announced a review of the ACNC legislation
- Released *Australian Charities Report 2016*
- Commented on the AAT's Waubra Foundation decision, and
- Updated its review and appeal policy.

These and other NFP developments are reported in our quarterly *NFP Risks and Compliance* newsletter.

Fraud and NOCLAR >

Enhancing whistleblower protections

The federal government has introduced a bill signalling stronger protections for whistleblowers who expose corporate and tax misconduct.

Minister for revenue and financial services Kelly O'Dwyer, said the bill was a significant milestone because it created a single, enhanced whistleblower-protection scheme to cover the corporate and financial sectors.

'The bill also features a new whistleblower-protection regime in the taxation law to protect those who expose tax misconduct,' Ms O'Dwyer said.

'The reforms mean whistleblowers will be able to come forward with the confidence that they will be protected under a comprehensive and robust legal framework.'

'Breaking ranks and reporting wrongdoing can be a harrowing experience, so it is important people know that they will have access to redress if they are victimised as a result of blowing the whistle.'

The new protection regimes apply to whistleblower disclosures received from 1 July. The disclosures can be about misconduct from before that date.

Former NewSat CEO charged

Following an ASIC investigation, Adrian Maxwell Ballintine of Brighton, Victoria, has been charged with three counts of authorising the making of a false or misleading document required under the Corporations Act.

NewSat was a satellite communications provider that was listed on the ASX until 31 August 2015. On 17 April of that year, receiver managers were appointed. On 7 August the company entered into liquidation.

ASIC alleges that on three separate occasions between 18 January and 15 September 2012, Mr Ballintine, a director and former chief

executive officer of NewSat, authorised the making of three invoices that were false or misleading contrary to section 1308(2) of the Corporations Act. ASIC alleges that the invoices caused NewSat to make payments amounting to \$357,000 to a private company associated with Mr Ballintine.

Each of the charges carries a maximum penalty of five years' imprisonment. The charges have been listed for a filing hearing to be held on 16 January.

Jason Dermot Cullen, an accountant engaged by NewSat, has been charged with two counts under section 1308(2) of the Corporations Act.

ASIC alleges that on 18 January and 9 August 2012, Mr Cullen authorised the making of two invoices for accounting services that were false or misleading contrary to section 1308(2) of the Corporations Act.

The commission alleges that the invoices caused NewSat to make payments amounting to \$275,000 to a private company associated with the company's former chief executive officer, Mr Adrian Ballintine.

Each of the charges carries a maximum penalty of five years' imprisonment. The charges have been listed for mention on 6 March.

AFS licensees

Court winds up land-banking scheme

The Federal Court in Melbourne has ordered that a land-banking scheme known as the Realestate Equity Investment Trust (REIT) and an associated company, Timeline Project Management Pty Ltd, be wound up.

REIT is a managed-investment scheme that owns land at Flinders Avenue in Lara, Victoria. At least 82 investors have put about \$800,000 into the REIT scheme. Since 2013, investors have been making payments in respect of their investment to Timeline.

ASIC's concerns included that:

- REIT had been operating despite its not having a validly appointed responsible entity
- REIT appeared unviable given there had been no progress in, nor prospect of, developing the land
- Financial statements for REIT had not been prepared or lodged with ASIC since 2012, and
- The interests of investors appeared to have been prejudiced by the operators of the scheme, including the dissipation of investors' money by management to entities unrelated to the scheme.

ASIC commissioner John Price said: 'ASIC will take action against unlawful managed-investment schemes and the parties that run such schemes. Unlawful schemes such as land banking put investors' money at risk and investors should be very careful in checking whether schemes are legitimate before putting up their hard-earned money.'

ASIC cancels Anquan's licence

ASIC cancelled on 11 December the Australian financial-services (AFS) licence

of West Australia-based Anquan Securities & Investments Pty Ltd as it was unable to comply with licence conditions.

Anquan provided financial services to clients, including authorising representatives to issue interests in managed-investment schemes.

The company asked ASIC to cancel its licence.

ASIC has required Anquan to maintain membership of an external-dispute-resolution service for 12 months.

ASIC imposes extra conditions on MyPlanner

ASIC has negotiated extra conditions on the AFS licence of MyPlanner Australia Pty Ltd after it found that the company was giving poor financial advice and lacked adequate monitoring and supervision of its representatives.

The commission discovered that some MyPlanner advisers had made inadequate inquiries into clients' relevant circumstances, had not completed sufficient analysis to determine the suitability of strategies, had not clearly defined the scope of advice, and had used generic reasons to support advice. Further, MyPlanner's pre-vet and audits did not sufficiently identify these issues.

As a result, ASIC found that MyPlanner failed to take reasonable steps to ensure that its representatives complied with financial-services laws and failed to carry out adequate supervisory arrangements.

Extra licence conditions also apply to a second AFS licence, MyPlanner Professional Services Pty Ltd.

The conditions require both licensees to engage an independent expert to assess, make recommendations and report on their

monitoring and supervisory arrangements, including current pre-vet and audit programs.

An initial report will be followed by three, quarterly reviews of client-file audits. Experts will conduct a final review of the licensees' implementation and effectiveness of recommendations.

ASIC accepts AIW's enforceable undertaking

ASIC has accepted an enforceable undertaking from AFS licensee AIW Dealer Services Pty Ltd to conduct an independent review of its advice processes.

The commission's surveillance focussed on AIW's supervision and monitoring of its representatives, in particular Otium Advice Pty Ltd.

Based on the Sunshine Coast in Queensland, Otium was a corporate-authorized representative of AIW from November 2012 to September 2016. The primary financial adviser and CEO of Otium, Drew Grosskreutz, was recently banned from providing financial advice for a period of three years.

ASIC's surveillance found that Otium advisers had used a 'one size fits all' advice model, advised clients to switch superannuation funds when it was inappropriate to do so and failed to demonstrate the ability, professional skills and knowledge required to provide competent financial-product advice.

ASIC believes that AIW might have failed to take reasonable steps to ensure that its representatives complied with financial-services laws and that it did not have available adequate resources to provide financial services and to carry out supervisory arrangements.

AIW acknowledges in the enforceable undertaking that these concerns are reasonable and will engage an independent expert to assess, make recommendations and report on the effectiveness of its policies and procedures.

A sample of Otium client files will be reviewed to test AIW's file-review

methodology and compliance with the Corporations Act.

AAT affirms financial-services banning

The Administrative Appeals Tribunal has affirmed ASIC's decision of 17 July 2015

to ban Trevor John Seymour, former non-executive director of Provident Capital Limited, from providing financial services for three years but set aside the commission's decision to disqualify Mr Seymour from managing corporations for three years.

Ethics

APESB revises APES 325 Risk Management for Firms

Accounting Professional & Ethical Standards Board Limited (APESB) has issued a replacement for APES 325 *Risk Management for Firms*.

The key change in the revised APES 325 is about specifically mandating the requirement for firms to document succession plans as part of their risk management processes.

A guidance paragraph was also added, saying that succession plans need to include specific actions that enable firms to continue operations.

The revised APES 325 will be effective from 1 April. The revised standard is available from APESB's website: www.apesb.org.au.

Exposure draft on client monies released

The APESB has released an exposure draft APES 310 *Client Monies* seeking feedback from stakeholders on proposed updates to the standard concerning professional accountants who deal with client monies.

APESB chair Nicola Roxon said: 'The board has prepared a range of proposed changes to this standard. The changes will improve clarity and address stakeholder feedback. [An accountant's] professional obligations in relation to client bank accounts have been clarified.'

The changes in the exposure draft include a new format and structure that separates the requirements for trust accounts from client bank accounts, the notification process to change the auditor of client monies, and addressing the role of professional accounting bodies in this process.

The draft is open for comment until 16 February and is available on www.apesb.org.au.

APESB proposes revisions to APES 225 Valuation Services

The APESB is seeking feedback from members who provide valuation services, professional accounting bodies and other stakeholders on an exposure draft outlining proposed revisions to APES 225 *Valuation Services* (last revised December 2015).

Exposure draft 04/17 proposes to include the standard of value and its definition in the valuation report and to include an example relating to the valuation of intellectual property in the standard's first appendix.

See the draft at: www.apesb.org.au. Feedback on the proposed changes is sought by 2 February.

Audit

New auditor-rotation rules

To enhance the independence of external auditing, the APESB has released new professional and ethical requirements on the length of time audit partners can perform their role.

The new requirements on audit-partner rotation will come into effect on 1 January 2019.

Ms Roxon said: 'The impact of the new requirements is [substantial]. It is important that auditors understand how the changes [affect] them and how these changes interact

with relevant Australian laws and regulations so they can apply the rules appropriately.'

The APESB has published a practical guide to help implementation, a valuable tool for auditors and audit firms as they navigate and comply with the new rules.

The requirements can be found in *Close-off Document: Amendments to Long Association of Personnel with an Audit or Assurance Client* in APES 110 *Code of Ethics for Professional Accountants*. The changes align with provisions released by the International Ethics Standards Board for Accountants (IESBA).

'Audit-partner rotation requirements strengthen the independence of auditors and investors and other stakeholders' confidence [They also] recognise that strong audit outcomes also come from deep knowledge and understanding of a client's business and operations [...]' said Ms Roxon.

More detail is available on the APESB website: www.apesb.org.au.

INSIDE GAAP CONSULTING

Fourteen GAAPinars to enhance your expertise

Do you struggle with fair value? Apply materiality correctly?

As a finance professional, do you know the law you really need to know?

At *GAAP Consulting*, we've listened to your training needs. And in autumn and early winter we'll be offering a comprehensive series of GAAPinars on the most difficult and complex aspects of auditing.

It all starts on 22 March. We hope you appreciate early notice of topics and dates.

How can you afford not to go online with us on the crucial topics below? The ones that matter most?

We've locked in the following:

- *What's new with GAAP, GAAS, APES and Regulators and Audit planning for 2018* (a double header) on 22 March
- *Business law for accountants and auditors – understanding employment law and Auditing payroll effectively* (a double header) 12 April
- *Fair value accounting – still a struggle for many* and *Using the work of experts and other auditors – getting it right* (a double header) on 19 April
- *Understanding Corporation Act and ACNC reporting mandates* 3 May
- *Applying the new materiality guidance* 10 May
- *Fixing the impairment accounting errors and Auditing estimates – addressing ASIC identified shortcomings* (a double header) on 17 May
- *30 June financial reporting and auditing considerations and New reporting framework and end of SPFRs* (a double header) on 31 May
- *Business law update for accountants and auditors* on 7 June, and
- *Understanding new insolvency law and going concern implications* on 14 June

A brochure will be available shortly. We are proud to have ReportFraud (www.reportfraud.org.au) as our sponsor for 2018.

Is there a topic not on our list but important to you? Let Colin know (colin@gaap.com.au) and we shall see what we can do.

March pop-up masterclass on AASB 15

Some preparers and auditors, particularly those in regional and rural areas, expressed disappointment at not being able to participate in our 7.5-hour face-to-face masterclass on AASB 15 *Revenue from Contracts with Customers* and were eager to know about our 2018 plans.

A pop-up GAAPinar masterclass on AASB 15 and AASB 1058 is to be held on 7 and 8 March (AEDT 10.30 am – 1.00 pm and 2.00 pm – 4.30 pm) with a Q&A to follow up on 21 March (AEDT 10.30 am – 1.00 pm). Now, that's 12.5 hours dedicated to the new revenue standards. Recordings will be available.

We will be covering the five-step revenue-recognition process, impairment, onerous contracts, asset recognition, presentation and disclosure, NFP issues, and RDR.

All our materials will be updated to aid in understanding and implementing these standards. We'll give plenty of examples. Importantly, we will be drawing on our implementation experience.

We will also be asking for questions and issues in advance to help us to cover the right material.

The Q&A session includes answers to three contract-assessment case studies, answers to questions submitted from the first two days, a panel discussion and a quiz to embed understandings. There will be helpful take-aways.

Presenters will be Carmen Ridley, Colin Parker, Sonya Sinclair and Stephen Newman (lawyer at Hope Earle).

A brochure will be available mid-January. In the meantime, please refer questions about content and price to Colin.

Pleasing feedback – thank you

Feedback from our recent face-to-face training events in Brisbane, Sydney and Melbourne on AASBs 15, 16 and 9 included: 'Thank you [...] The presentations and venue were absolutely perfect.'

And: 'The two days were some of the best technical training I have experienced. Please pass on my personal thanks to Colin and Carmen – they make a great team and I am truly grateful for the focus they placed on non-profit and local government.'

As to our GAAPinars: 'My team and I have enjoyed the GAAPinars [...], good job!'

And a comment after helping an auditor: 'I have been in this game for a long time and you would think I would be able to make my way around the standards. Too many for that. Thank god for people like you.'

NFP Risks and Compliance newsletter released

GAAP Consulting's December-quarter edition of *NFP Risks and Compliance* newsletter has been circulated to accounting-firm subscribers.

Topics covered were:

Governance

- Government to reform DGRs
- ACNC legislation to be reviewed
- New consumer law guidance on fundraising
- Report urges caution when donating
- FIA authority to oversee new fundraising code of practice
- AUSTRAC's regional NFP sector risk assessment 2017
- Mungabareena put under special administration

ACNC

- ACNC urges early AIS submission
- Streamlining non-government-school reporting
- ORIC and ACNC renew understanding
- New ACNC toolkit to help connect MPs and charities
- New corporate-partnerships factsheet available
- Insights from the ACNC annual report
- Key findings from the *Australian Charity Report 2016*
- Australians trust charities: ACNC report

- Organisations lose charity status
- AAT confirms ACNC decision on the Waubra Foundation
- ACNC commissioner appointed

Financial reporting

- Making materiality judgements – new guidance
- Charity reporting requirements are too complex
- Improving financial reporting for charities
- Complex standards arrive

Fraud and NOCLAR

- Former Wagga CEO convicted
- Getting tough on fraud – top tips
- NOCLAR operative

Our aim is that firms keep current and potential NFP clients informed. It helps enormously when accountants can demonstrate expertise and experience. At last count, there were about 600,000 NFPs in Australia, including more than 54,000 charities.

Subscribers are free to delete material that is not suited to their needs, rearrange the order of articles or change headings – the flexibility is all theirs. They may add their own firm's news.

For further information on use of content for your accounting practice or for a copy of the *GAAP Consulting* version, please contact Colin.



Colin Parker
GAAP Consulting

Contact Us

Should you require any further information about the services provided or our team, please contact:

Colin Parker

Principal, *GAAP Consulting*
Head of the GAAP Consulting Network
Email colin@gaap.com.au
Mobile 0421 088 611
Postal GPO Box 1497, Melbourne, Victoria 3001
Website www.gaap.com.au

Sponsored by

Report**Fraud**

GAAP Consulting

advice • training • risk management • information

This communication provides general information current at the time of release. It is not intended that the information provide advice and should not be relied on as such. Professional advice should be sought prior to actions on any of the information contained herein.