

Mr Douglas Niven
Senior Executive Leader
Financial Reporting and Audit
Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

6 November 2015

Dear Mr Niven

Comments on Consultation Paper 240 Remaking ASIC Class Orders on Rounding, Directors' Reports, Disclosing Entities and Other Matters

Deloitte is pleased to provide ASIC with our comments on ASIC Consultation Paper 240 *Remaking ASIC Class Orders on Rounding, Directors' Reports, Disclosing Entities and Other Matters*.

Our comments are set out below. However, we would like to open our comments with some general observations.

The class orders identified for remaking, in general, provide relief from reporting requirements. Deloitte has long supported moves to facilitate a simpler regulatory system and remaking these class orders is consistent with these goals. We note the Australian Accounting Standards Board is currently undertaking a research project on the Australian financial reporting framework and we believe the progression of this project should include the involvement of government policymakers and regulators in order to create a practical, meaningful financial reporting framework that is responsive and relevant to the needs of the various users of financial statements whilst acknowledging that one size does not fit all.

Remaking of Class Orders 98/100, 98/101, 98/2395, 98/96, 98/2016 and 08/15

The class orders proposed to be remade are:

- Class Order [CO 98/100] *Rounding in financial reports and directors' reports*
- Class Order [CO 98/101] *Members of companies, registered schemes and disclosing entities who are uncontactable*
- Class Order [CO 98/2395] *Transfer of information from the directors' report*
- Class Order [CO 98/96] *Synchronisation of financial year with foreign parent company*
- Class Order [CO 98/2016] *Entities which cease to be disclosing entities before their deadline*
- Class Order [CO 08/15] *Disclosing entities—half-year financial reporting relief*

Furthermore, as [CO 98/2016] and [CO 08/15] relate solely to disclosing entities ASIC proposes that they be remade as a single legislative instrument.

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We agree with the proposal to remake the aforementioned class orders and the rationale provided other than as noted below for Class Order 98/101, Class Order 98/2016 and Class Order 08/15. We have not experienced any issues with the operation of these class orders in practice and do not recommend any amendments to the draft instruments.

We further agree with the proposal to remake class orders [CO 98/2016] and [CO 08/15] as a single legislative instrument.

Recommendation for Class Order 98/101

We agree with the proposal to remake this class order and the rationale provided. However since the class order was first introduced the Act has been amended to allow a member to elect to receive a copy of the reports for each financial year, or a copy of concise financial report for each financial year, either as a hard copy or an electronic copy. The class order only provides relief where the election is made to receive a hard copy of the reports. Given the increasing use of electronic communication with members it is expected that similar issues will arise with email addresses also becoming obsolete and recommend that consideration is given to providing relief to entities also in these scenarios.

We recommend the following amendment to 'Attachment 2 to CP 240: Draft instrument':

- Section 6 – remove (1) from the reference to paragraphs 5(1)(b) and (c) as this is inconsistent with the numbering in section 5.

Recommendation for Class Order 98/2016

We agree with the proposal to remake this class order and the rationale provided. However we note that the current class order includes the ability to ignore non-compliance in relation to an affected auditor or affected audit company as defined in ASIC Class Order 14/757 *Relief in relation to the registration of auditors* and that this has not been reflected in the draft instrument. To the best of our understanding the Act has not been amended to reflect the requirements of this class order and therefore question whether the draft instrument should also include an ability to ignore non-compliance with respect to registration of auditors.

Recommendation for Class Order CO 08/15

We agree that class order [CO 08/15] is operating effectively but we would recommend consideration be given to additional relief for newly incorporated entities that fall outside this window where their financial statements are prepared with comparative information on the basis the accounts are considered the continuation of an existing entity (group reorganisation accounting). We would recommend relief be provided from sections 302 and 306 of the Act which would otherwise require a half year financial and directors' report be prepared for the 6 months commencing on the date of incorporation of the newly incorporated entity where a half year financial and directors' report is instead prepared based on the company's ultimate half year timing (that is the timing of their financial report once they have passed their first financial year end).

Section 302 of the Act requires a disclosing entity to inter alia, prepare a financial report and directors' report for each half year. Section 323D of the Act indicates that a half year for a disclosing entity is the first 6 months of a financial year, commencing on the date of incorporation for a newly incorporated entity. However the preparation of such financial statements is inconsistent with the basis on which the group reorganisation has been accounted for, that is as the continuation of an existing entity. If the date of incorporation determines the timing of the half year financial report issues will arise with respect to the determination of comparatives and presentation of multiple interim periods, of different lengths, where an alternative set of half year financial statements is also prepared based on the company's ultimate half year timing (that is the timing of their financial report once they have passed their first financial year end).

It is our understanding that half year reporting based on the date of incorporation is inconsistent with the expectations of the ASX who frequently require newly listed entities to supply some form of financial update to the market consistent with their ultimate half year timetable, as this aligns with market expectations and is consistent with the reporting by other listed entities with the same year end. Such a financial update is often in the form of a half year financial report in accordance with Australian Accounting Standards.

As such providing our recommended relief would eliminate the need to lodge multiple sets of accounts within a short time period (whether due to the Corporations Act or ASX requirements) which is considered:

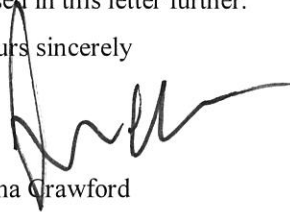
- Unnecessarily burdensome as stakeholders are not likely to be disadvantaged by not receiving a second interim report in close proximity to either the annual or alternative half year report, particularly given continuous disclosure obligations; and

- Costly. In addition to the alternative half year report already prepared for ASX purposes, we note a reporting period based on date of incorporation may well fall mid month and an entity's systems and processes may not be designed for such a cut-off and significant extra costs may need to be borne in addition to any normal reporting costs.

We therefore recommend that class order contemplates relief in such scenarios and understand that similar relief has already been provided to other entities. As a final comment, we note the presentation of financial statements of newly incorporated entities with comparative information is not a new basis of accounting and so could have been contemplated when the old class order was developed, however the structuring of transactions has changed over times leading to such accounting (group reorganisation) being more prevalent today.

We thank you for this opportunity to comment on this Consultation Paper. Please do not hesitate to contact Anna Crawford on +61 02 9322 7177 or Melissa Sim on +61 02 9322 7934 if you would like to discuss any of our comments raised in this letter further.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Anna Crawford', written over a vertical line.

Anna Crawford
Partner
Deloitte Touche Tohmatsu