



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

via email: policy.submissions@asic.gov.au

28 October 2015

Dear Doug

Re: ASIC Consultation Paper 240 *Remaking ASIC class orders on rounding, directors' reports, disclosing entities and other matters*

We are pleased to respond to your consultation paper 240 *Remaking ASIC class orders on rounding, directors' reports, disclosing entities and other matters*. We agree that these legislative instruments are necessary and should be preserved before their sunset date.

We also support ASIC's intentions of simplifying the drafting of the instruments to make them easier to read. The instruments are for application by preparers of financial reports, who will not necessarily have a legal background. In our view, it is therefore important that the instruments are written in a language that is easily understood. We are concerned that this may not necessarily be the case for some of the draft instruments published with this consultation paper.

We have highlighted a few particularly complex paragraphs in the Appendix to this letter and we encourage ASIC to consider whether the drafting could be improved by using more plain English and positive rather than negative language. We would be happy to assist with this process.

If ASIC is required to use this style of writing for legal reasons, we recommend that ASIC complements each instrument with explanatory statements, as has been done with other recently issued instruments. We have provided some suggestions for these explanatory statements in the appendix, including proposed tables that summarise the application of some of the instruments. However, if the instruments are issued as drafted, preparers are likely to rely primarily on the explanatory statements rather than referring to the original instruments when determining whether and how to apply the relief, which cannot be an ideal situation.

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Our detailed comments on each of the draft instruments are included in the appendix.

I would welcome the opportunity to discuss our firm's views at your convenience. Please contact me on (02) 8266 7104 or Meina Rose on (02) 8266 2341 if you would like to discuss our comments further.

Yours sincerely,

A handwritten signature in black ink, appearing to read "P. Shepherd".

Paul Shepherd

Partner, PricewaterhouseCoopers



Appendix: PwC’s specific comments on the proposed instruments

Attachment 1: ASIC Corporations (Rounding in Financial/Directors’ Reports) Instrument 2015/XX

As stated in our covering letter, we found the legal terminology used in the new instruments difficult to understand at times. To make it easier for readers to determine which level of rounding can be applied, we recommend including a table along the following lines in the explanatory statement:

	Reference	Assets of \$10m or less	More than \$10m but less than \$1,000m	More than \$1,000m but less than \$10,000m	Assets above \$10,000m
General disclosures in the directors’ report and financial statements		Nearest \$	Nearest \$1,000	Nearest \$100,000 (rounded to \$x.xm)	Nearest \$1m
Specified disclosures: <ul style="list-style-type: none"> Directors’ report (indemnities, non-audit services) Remuneration report Share-based payments Remuneration of auditors KMP compensation Related party transactions 	CA300(1)(g), (8),(9),(11B) and (11C) CA300A(1)(c), (e) AASB 2 AASB 1054(10) AASB 124(17) AASB 124(18),(19)	Nearest \$	Nearest \$	Nearest \$1,000	Nearest \$1,000
Share price and related disclosures	CA300(6)(c), (7)(d),(e) AASB2(44),(46)	1 cent	1 cent	1 cent	1 cent
Earnings per share disclosures	AASB 133	1/10 th of a cent	1/10 th of a cent	1/10 th of a cent	1/10 th of a cent

Rounding to the nearest dollar

Paragraph 9 of CP 240 states that ‘In the absence of ASIC relief, entities preparing financial reports under the Corporations Act would be required to present amounts to the lowest level (e.g. cents).’ However, both the new instrument and class order 98/100 only apply to entities with an asset value



greater than \$10m. This implies that all entities with assets of less than \$10m would not be able to round the amounts in their financial statements to the nearest dollar but should instead disclose them to the nearest cent. To our knowledge, this is not done in practice.

To remove any uncertainty, we recommend expanding the scope of the class order such that it applies to all entities and making the lowest rounding factor of \$1 available to all entities.

Alternatively, ASIC could clarify that a reference to being “stated exactly” means disclosed to the nearest dollar, not dollar and cents, but would also have to explain that this does not apply to earnings per share and share-based payment related disclosures.

Parent entity and consolidated financial statements presented in the same document

Some companies still present both parent entity and consolidated financial statements in the same document. It is possible that the entity exceeds the threshold for rounding eg for the consolidated financial statements but not for the parent entity financial statements. Both the old class order 98/100 and the new draft instrument refer to “the balance sheet or consolidated balance sheet” which must have assets of more than \$10m (or higher for a higher level of rounding).

This would appear to imply that it is sufficient if the threshold is met for one of the two sets of financial statements and that both sets of financial statements can be rounded where they are presented together in the same financial report. However, it would be helpful if this interpretation was confirmed in the explanatory statement.

Rounding where threshold is no longer met

Another scenario that has raised questions in the past is where an entity did meet the threshold for rounding in the previous financial year, but not for the current year. It is our understanding that in this case the comparative information can no longer be rounded. However, it would again be helpful if ASIC could clarify this.

Editorial comment

There appears to be a word missing in paragraph 5(h): “the eligible entity clearly discloses on each page ...”

Attachment 2: ASIC Corporations (Uncontactable Members) Instrument 2015/XX

The draft instrument appears reasonable, we have noted no issues.

Attachment 3: ASIC Corporations (Directors’ Report Relief) Instrument 2015/XX

Transfer of independence declaration

CO98/2395 also permitted the transfer of the auditor’s independence declaration (previous section 298(1)(c)), although we note that the class order was never updated to reflect the replacement of this section with section 298(1AA)(c).



In our experience, the auditors' independence declaration is often reproduced outside of the actual directors' report and we would strongly recommend re-introducing formal relief from the requirement to include a copy of the declaration in the directors' report. The same applies to companies limited by guarantee (section 298(1AB)(b)).

Transfer of information to the financial report.

As explained in CP 240, the draft instrument intends to continue the relief provided by class order 98/2395 without significant changes. However, paragraph 5(3) appears to prohibit the transfer of certain information to the financial report for disclosing entities only whereas the prohibition in CO 98/2395 applied to all entities. While we do not object to this change in principle, it is not clear from the comments provided in CP 240 whether this change was intentional or not.

We also found paragraph 5(3) of this draft instrument particularly hard to follow and feel that this paragraph could be simplified as follows:

“Notwithstanding paragraph (2) above, disclosing entities are not permitted to transfer the information required by ... to the financial report.”

In any case, we also recommend including a table in the explanatory statement that summarises the application of the instrument along the following lines:

Section of CA	Nature of disclosure	Transfer to other document	Transfer to financial report
298(1AA)(c) * 298(1AB)(c) *	Auditor's independence declaration	Yes	Disclosing entities: No Other entities: Yes
298(1A)	Additional information to give true and fair view	Yes	Disclosing entities: No Other entities: Yes
299	General information about operations and activities	Yes	Disclosing entities: No Other entities: Yes
299A	Additional information on the operations, financial position and prospects	Yes	Disclosing entities: No Other entities: Yes
300 (except 300(11B),(11C))	Various specific information	Yes	Yes
306	Half-year directors' report	Yes	Disclosing entities: No Other entities: Yes

* Currently no relief provided, but recommended to re-introduce, see comments above.



Attachment 4: ASIC Corporations (Synchronisation of Financial Years) Instrument 2015/XX

The language used in this instrument is particularly difficult to follow, specifically paragraph 5(1). We strongly encourage ASIC to consider whether this paragraph could be rewritten using positive rather than negative language and we would be happy to assist with this process.

If language such as this is necessary for legal reasons, it will be important to supplement the instrument with a clear explanatory statement. However, as explained in our covering letter, we feel that this is a less than ideal situation.

Attachment 5: ASIC Corporations (Disclosing Entities) Instrument 2015/XX

The draft instrument appears reasonable, we have noted no issues.