



Independent Schools Queensland Response to

Australian Securities & Investment Commission Consultation Paper 207

Charitable investment fundraisers

July 2013

Background

Independent Schools Queensland (ISQ) is the peak representative body for the independent schooling sector in Queensland. ISQ membership comprises 187 independent schools operating on some 200 campuses throughout the state. These schools are educating over 115,000 students in 2013, or approximately 15% of all Queensland students. Further, independent schools educate nearly 20% of all Queensland secondary students. The majority of independent schools are Prep to Year 12 schools. Independent schools are autonomous schools governed at the local level. Each school's governing body is responsible for the educational programs offered by the school and the delivery of those programs.

ISQ is a member association of the Independent Schools Council of Australia (ISCA). ISQ strongly endorses any ISCA submission to ASIC on this consultation paper. ISQ welcomes the opportunity, on behalf of its members, to make this submission to the Australian Securities and Investments Commission's consultation into the proposed changes to the ASIC Regulatory Guide 87 Charities.

Independent Schools Queensland continues to support a “no-change” position as outlined in Option 2 of the proposed reforms. This involves the retention of the existing exemptions and introduction of additional conditions of relief for schools.

Option 2 would continue the prior exemption available to Independent Schools in Regulatory Guide 87 for school enrolment deposits. In Regulatory Guide 87, an exemption was available if the deposit was required as a condition of enrolment of a child in the school, and if any rights or interests attached to the deposit were merely incidental to the enrolment. The exemption for school enrolment deposits was given in recognition that profit to the depositor was not likely to be a consideration and therefore the investor did not expect or seek information required by the fundraising provisions, nor some of the protections set out in the managed investment or debenture provisions nor the licensing provisions.

Independent Schools Queensland would maintain that irrespective of which option is chosen (Option 1 or Option 2) the current exemption for school enrolment deposits should be retained. Independent Schools are highly regulated authorities, responding to the Commonwealth through DEEWR

(Department of Education, Employment and Workplace Relations), the ACNC (Australian Charities and Not-for-profits Commission) as well as to State Authorities such as the Department of Education, the Office of Fair Trading, or to ASIC.

As part of the reform process in implementing a national regulator for the Not-for-profit sector, the Commonwealth Government gave an undertaking to “cut red tape”. Removing the exemption for enrolment deposits would impose an enormous administrative burden of red tape on independent

schools simply because they collect enrolment deposits as a condition of enrolment of a student at the school. We would undertake that this extra red tape is not in the spirit or in the intent of the current consultation.

Proposal E1Q1

Independent Schools Queensland would maintain that the situation has not changed in independent schools. School enrolment deposits continue to be required only as a condition of enrolment of a child in the school and any rights or interests attached to the deposit are merely incidental to the enrolment. We agree with Proposal E1Q1 that there continue to be a roll over relief available to schools for school enrolment deposits under [CO 02/151] without amending the terms of the relief. Independent Schools are in the business of educating students and the collection of an enrolment deposit as part of the enrolment process is incidental to the central purpose of providing high quality education to its students.

Independent Schools are not-for-profit entities whose activities are charitable. Any activities they undertake which may fall into the definition of managed investments, debentures or fundraising are incidental to their charitable activities and should not be considered as coming under the AFS licensing provisions of the Corporations Act.

There are no new circumstances or risks which should cause ASIC to review the terms of the existing exemption or which would warrant changing the existing terms of relief for Independent Schools in Queensland. We therefore support the roll-over of the existing exemptions for school enrolment deposits.

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