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James Grapsas
Investment Managers Team
Australian Securities and Investments Commission
Level 5, 100 Market Street
SYDNEY NSW 2000

24 February 2021

Dear James

CONSULTATION PAPER 336 - FINANCIAL REQUIREMENTS: TREATMENT OF LEASED ASSETS

BDO welcomes the opportunity to provide a submission on Consultation Paper 336 dealing with the treatment of leased assets when assessing whether AFS licensees satisfy certain financial requirements that apply to them.

We concur with the basic objective in the Consultation Paper. However, we foresee potential problems with the drafting of some of the proposals such that outcomes for specific licensees may be different to what was outlined in the Consultation Paper. Our detailed comments are included in Appendix A to this letter.

Please refer to our detailed comments included in the appendix to this letter.

If you have any comments regarding our submission, please do not hesitate to contact Aletta Boshoff at aletta.boshoff@bdo.com.au.

Yours sincerely

BDO Services Pty Ltd

Aletta Boshoff

National Leader, IFRS Advisory

Amendments to the definitions of 'excluded assets'

While we agree in principle that right-of-use assets should not be treated as 'excluded assets' for the purposes of net tangible asset (NTA), SLF (surplus liquid funds) and ASLF (adjusted surplus liquid fund) calculations, we believe that the changes, as currently drafted, will only achieve the objective outlined in the Consultation Paper for the NTA calculations. This is because the right-of-use asset and the lease liability will both be included in NTA calculations, regardless of their status as current or non-current assets/liabilities.

We do not believe that the proposals for amendments to [Pro Forma 209](#) (as referenced in paragraphs 16, 24 and 34 of the Consultation Paper) will achieve a fair result for the SLF and ASLF calculations, which use the NTA value as a starting point, and then effectively remove the effect of non-current assets and non-current liabilities. This is because right-of-use assets are usually presented in their totality as non-current assets, whereas lease liabilities are split into a current and non-current portion. This could result in licensees breaching their SLF and ASLF conditions because current liabilities are deducted in arriving at SLF and ASLF, whereas there are no current right-of-use assets in the balance sheet to add back. Refer [Discussion](#) below.

We therefore recommend that both the right-of-use asset and lease liabilities (both current and non-current) be excluded from the SLF and ASLF calculations. This will put licensees in the same position pre-AASB 16.

Discussion

Right-of-use assets capitalised in accordance with AASB 16, which are not short-term leases, are considered long-term assets and therefore classified as non-current assets.

They are not usually classified as current assets because they are not realised, sold or consumed within the normal operating cycle, they are not held primarily for the purpose of trading, and they are not cash. Also, they are not 'realised' within 12 months after the reporting period, even where the lease has less than 12 months to run (i.e. remaining useful life is less than 12 months).

An entity shall classify an asset as current when:

- (a) it expects to realise the asset, or intends to sell or consume it, in its normal operating cycle;
- (b) it holds the asset primarily for the purpose of trading;
- (c) it expects to realise the asset within twelve months after the reporting period; or
- (d) the asset is cash or a cash equivalent (as defined in AASB 107) unless the asset is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting period.

An entity shall classify all other assets as non-current.

AASB 101, paragraph 66

This Standard uses the term 'non-current' to include tangible, intangible and financial assets of a long-term nature. It does not prohibit the use of alternative descriptions as long as the meaning is clear.

AASB 101, paragraph 67

Breach reporting

Whilst ASIC's 'No Action' stance on this matter was welcomed for the year ended 30 June 2020, a strict interpretation required both the Licensee to report a breach under section 912D, and the Auditor to report a breach under section 990K of the *Corporations Act 2001*. Notwithstanding ASIC's stance, it is arguable that breach reporting would continue to be required for the intervening period since the previous breach notifications by the Licensee and Auditor.

We request that ASIC consider granting dispensation to the Licensee and Auditor from reporting such breaches for the intervening period covered since the prior breach notifications to the extent they are within the scope of the proposals contained in the Consultation Paper. This will avoid unnecessary administrative actions by Licensees and Auditors on reporting breaches for a matter ASIC has already considered, taken a 'No Action' stance on, and subsequently seeks to formalise this relief through this Consultation Process.