

11 March 2021

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

Dear Ms Duong

Consultation Paper 337 - Externally administered companies: Extending financial reporting and AGM relief

As the representatives of over 200,000 professional accountants in Australia, Chartered Accountants Australia and New Zealand and CPA Australia welcome the opportunity to provide feedback on ASIC's Consultation Paper 337.

We do not consider there is any compelling statistical or commercial bases for extending, for a period up to 24 months, the relief from reporting obligations under *the Corporations Act 2001* (Cth) (the Act) for companies under external administration. However, we do acknowledge the burden financial reporting places on the administrators of a company. With this in mind, we propose that the deferral relief period be extended for a period up to 12 months.

Our comments below are informed by consultation with our members, who shared their lived experiences of taking the role of administrator or Deed Administrator, preparing financial reports and obtaining an external audit of the same.

B1: To conditionally extend the current deferral relief to a period of up to 24 months.

We do not support an extension to 24 months, irrespective of conditions. We propose that an extension for up to 12 months is more appropriate.

The financial reporting obligations set out in Part 2M.3 of the Act are aimed at protecting shareholder/member interests in companies and it is expected that these report users can rely on financial reports as a vital source of information. They have confidence in the financial reports prepared by companies as, in accordance with the Act, they are also subject to an external audit.

It appears the impetus for extending the relief for 24 months is to save time and cost in the external administration. Yet, while approximately 2000 listed companies have other statutory reporting obligations that may provide transparency with respect to their financial situation, large proprietary companies, of which there are around 7000 in number, do not.

Further, any extension to automatic relief should reflect the intent of external administration; that is, to resolve the future of a company quickly. We are of the view that the risk of misconduct during external administration could potentially increase if relief from the accountability and independent scrutiny afforded by audited financial reporting is extended.

We recognise the cost and time involved in preparing audited financial reports, but this must be balanced with the obligation to ensure that all parties interested in the financial status of a reporting entity have access to publicly available, audited financial information about that entity.

B4: Potentially imposing new conditions on deferral relief.

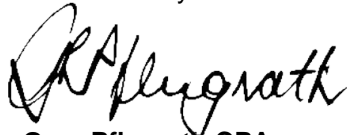
An administrator for a company is charged with assessing the various alternative pathways and then recommending the one they consider will maximise the returns for the creditors. We do not consider that it is the role of an administrator to make available to the public any form completed for, and lodged with, ASIC on behalf of creditors. ASIC already publishes parts of these forms and, if ASIC holds the view that the information contained in Forms 5602 and 5603 can assist stakeholders in the absence of audited financial reports, it should now publish these forms in full. We iterate our view, communicated in previous submissions, that all information published by ASIC in relation to a company should be accessible free of charge to the public.

We also do not consider that replacing one regulatory requirement, financial reporting, with another, the preparation and provision of management accounts, will address the perceived burden on administrators. Further, we are particularly concerned that, as there are no standards governing the preparation of management accounts and given that they are not subject to independent assurance, such reports could mislead rather than inform users of the information.

As ASIC recognises, 'An auditor's report is a key tool when reporting financial information to users. It is an independent opinion provided by an independent external auditor as a result of an audit, review or agreed procedures conducted on an entity.'ⁱ Such an opinion is never more critical to creditors, members and potential investors than when a company is in external administration seeking to turnaround the business.

If you have any questions about our submission, please contact Karen McWilliams (CA ANZ) at karen.mcwilliams@charteredaccountantsanz.com or Ram Subramanian (CPA Australia) at ram.subramanian@cpaaustralia.com.au.

Yours sincerely



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ⁱ ASIC: <https://asic.gov.au/regulatory-resources/financial-reporting-and-audit/users-of-financial-reports/>, accessed 8/3/21