

HR & Tax Alert



Quality In Everything We Do

Australia – Proposed Changes to Reporting Requirements for Director and Executive Remuneration for Australian companies

February 2007

Executive summary

On 19 January 2007, the Australian Treasury closed the consultation period for the Proposals Paper “Corporate and Financial Services Regulation Review” (‘Proposals Paper’). The Proposals Paper contains 35 proposals aimed at refining and reducing the regulatory burden in the areas of financial services regulation, company reporting obligations, auditor independence, corporate governance, fundraising, takeovers and compliance for companies in Australia. The proposals contained in the paper are a result of the views expressed by interested parties on the Treasury’s Consultation Paper of the same title, which was issued in April 2006.

This Alert highlights the key changes proposed in the areas of company reporting obligations and corporate governance in relation to director and executive remuneration and the responses to the Treasury made by Ernst & Young on the Proposals Paper.

Highlights

The proposed changes to the Corporations Act have been driven by inconsistencies and duplications between the two sets of requirements under the Australian Accounting Standards (in ‘AASB 124’) and the Corporations Act 2001. If the current proposed changes are adopted:

- all companies that are “disclosing entities” (as defined in the Corporations Act 2001 and which includes companies listed on the Australian

Stock Exchange) would be required to prepare an audited remuneration report;

- the current disclosure requirements regarding director and executive remuneration in AASB 124 would form the basis for the Corporations Act 2001 disclosure requirements. However, these will be supplemented to include the disclosures currently required in the Corporations Act 2001 that are not covered by the requirements in AASB 124 (for example, additional disclosures required by the Corporations Act 2001 in relation to bonuses);
- the current requirements to disclose the maximum and minimum value of option grants and the aggregate value of options that have been granted, exercised or lapsed during the period would be repealed;
- remuneration disclosures would be required for all ‘Key Management Personnel’ as defined in AASB 124, but the definition would be supplemented to mandate disclosure of the five most highly remunerated executives; and
- a new disclosure requirement would be introduced requiring companies to disclose the board’s policy on executives and directors entering into contracts to hedge their exposure to options or shares granted as part of their remuneration package and how the company enforces this policy.

Issues for consideration

- The Treasury's proposal to place the remuneration disclosure requirements for executives and directors exclusively in the Corporations Act will allow the requirements to be located in one place and remove duplication between the Act and the Accounting Standards.
- Although the Proposals Paper requires the remuneration report to be audited, it is not anticipated that this will cause companies a significant increase in workload in preparing the annual report. This is because a considerable amount of the information contained in the remuneration report should already be subject to audit. However, the qualitative statements included in remuneration reports are often not capable of being audited. Ernst & Young has made representations to the Treasury on this matter and will update you of any further developments.
- The Proposals Paper will apply to all companies which are disclosing entities and not just listed companies. For example, companies that issue bonds will be disclosing entities and will now have to prepare a remuneration report where previously they were not required to. However, such companies are already required to provide such information as part of their AASB 124 disclosures which are applicable to all disclosing entities and hence will not be subject to any additional compliance.
- The proposal to remove the disclosure of the maximum and minimum value and the aggregate value of options granted, exercised or lapsed during each year will not result in less information being available as this information could be determined by other disclosures already provided if required.
- The term 'Key Management Personnel' has been interpreted very widely and differently by preparers of financial statements due to a lack of guidance in the accounting standard. It is expected that Treasury would need to work with the Australian Accounting Standards Board to provide clearer guidance regarding the intended meaning of "Key Management Personnel" in order to avoid inconsistencies in its interpretation, particularly as the term will be included as part of legislation.
- The proposal to mandate disclosure of the board's policy on executives entering into contracts to hedge their exposure to options or shares granted will ensure that shareholders have all the relevant information when voting on the remuneration report.

Next steps

Now the consultation process for the Proposals Paper has closed, it is expected that a draft bill will be released which, subject to any further consultation, will be placed before Parliament in due course. We will keep you updated of further development via future Alerts.

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