

HR & Tax Alert



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Australia – Changes to Australian executive and director remuneration disclosure requirements

July 2007

Executive summary

On 21 June 2007, the Corporations Legislation Amendment (Simpler Regulatory System) Bill 2007 was passed by Parliament and received Royal Assent on 28 June. The bill contains a range of measures intended to simplify and streamline Australia's corporate and financial services laws.

Included in the amendments are a number of changes to section 300A of the Corporations Act relating to the disclosure of executive and director remuneration. The primary impact of these changes on companies is a simplification of reporting requirements due to consolidation of the requirements in accounting standards and the Corporations Act, thereby removing associated inconsistencies. However, as a result, there will now be a requirement for the Remuneration Report to be audited. Additionally, there is a new requirement to disclose company policy regarding hedging of equity-based remuneration.

The changes regarding remuneration disclosures will apply to companies which are disclosing entities for financial years that begin on or after the bill received Royal Assent on 28 June 2007.

Summary of changes

The changes in the bill relating to the disclosure of executive and director remuneration are:

1. Broadening of application of remuneration disclosure requirements

The disclosures previously required by the Corporations Act applied to Australian listed companies only. The scope of these requirements have been broadened and now apply to all companies which are disclosing entities (as defined in section 111AC of the Corporations Act) regardless of whether the company is listed.

2. Removal of duplication of remuneration disclosures

The remuneration disclosure requirements for executives and directors of listed companies have been included in both the accounting standards and the Corporations Act (and the Corporations Regulations) leading to duplication of information within the Annual Report as well as some minor inconsistencies. Corporations Regulation 2M.6.04 permitted companies to elect to transfer certain disclosures from the Financial Statements to the Remuneration Report, removing some duplication. However, inconsistencies remained.

A series of amendments to section 300A of the Corporations Act incorporate the main remuneration disclosure requirements from the accounting standards.

Individuals whose remuneration must be disclosed will remain the same. Section 300A of the Corporations Act requires all directors and the five most highly paid executives to be disclosed. The amendments add 'key management personnel' to those individuals requiring disclosure under section 300A of the Corporations Act. For consistency, the term 'key management personnel' will have the same meaning as per the definition in the accounting standards.

3. Change to scope of remuneration policy and framework disclosure requirements

The requirement to disclose such information for 'directors, secretaries and senior managers' has been replaced by a requirement for disclosure in respect of 'key management personnel'. Therefore individuals for whom the remuneration policy and frameworks should be disclosed have changed.

4. Disclosures subject to audit

As a result of the incorporation of the remuneration disclosures from the accounting standards, a new provision has been added to the Corporations Act requiring that the auditor must provide a formal opinion on whether the remuneration report complies with the disclosure requirements under 300A of the Corporations Act.

5. Disclosure of policy regarding hedging of equity-based remuneration

In light of recent shareholder and media focus on the use (and speculated use) by executives of hedging instruments to protect the value of equity-based remuneration, an additional disclosure provision has been added to the Corporations Act. The new disclosure requirement means companies must disclose board policy in relation to directors and executives hedging their equity-based remuneration and how the policy is enforced.

6. "Tidy-up" amendments to disclosure requirements

The following additional minor technical amendments have also been made:

- The measures clarify the disclosure requirement in subparagraph 300A(1)(e)(iv) to disclose the value of options that lapsed during the year. The clarification is that for the purposes of the value disclosed it should be assumed that the performance condition was otherwise satisfied.
- The requirement under subparagraph 300A(1)(e)(v) of the aggregate value of options granted, exercised and lapsed during the year has been removed.

In addition to the changes made under the bill, the Corporations Amendment Regulations 2007 (No.2) remove the requirements in relation to disclosing the maximum and minimum potential value of any outstanding bonuses or equity grants.

To discuss how these issues may impact you, or how to make your Remuneration Report a more effective shareholder communication tool, please contact your local Ernst & Young Human Capital professional or, in Australia:

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