

22 November 2022

Corporate Governance and Intellectual Property Policy Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

Via email: societies@mbie.govt.nz

Submission on Consultation Document: Regulations for the Incorporated Societies Act 2022

As the representatives of over 300,000 professional accountants in Australia, Chartered Accountants Australia and New Zealand (CA ANZ) and CPA Australia welcome the opportunity to comment on the consultation document (“**the CD**”) on the proposed regulations for the *Incorporated Societies Act 2022* (“**the Act**”).

We are strong supporters of the not-for-profit (NFP) sector as many of our members are involved in this sector as advisors, auditors, employees, and volunteers. We advocate in the public interest for requirements that promote the transparency of the NFP sector and its activities, to stakeholders and the public, in a way that minimises the complexity and cost for NFP entities.

The **Attachment** to this letter includes our responses to the specific questions raised in the CD. We have focused our feedback on matters relating to reporting and audit.

Key points:

- We recommend introducing a requirement for the annual return to contain some basic financial information.
- We recommend that the annual report is required to include any financial statements that are required to be prepared, and if those financial statements are required to be audited – the auditors’ report.
- We agree with aligning the date by which the annual return must be filed with the financial statement filing deadline – six months after balance date.
- We recommend that the proposed definition of ‘total current assets’ be clarified, and the term ‘total assets’ be defined.
- We agree with not prescribing additional requirements for the financial statements of ‘small’ societies.
- We recommend aligning the audit threshold with that of charities.
- We recommend that the proposed definition of ‘total operating expenses’ be clarified in relation to the proposed threshold for requiring financial statements to be audited.
- We recommend the addition of an infringement offence in the case of wilful non-compliance with the financial statement preparation and audit requirements of the Act.
- We do not support the introduction of a fee for incorporated societies to re-register under the Act.

Should you have any questions about the matters raised in this submission or wish to discuss them further, please contact either Zowie Pateman (CA ANZ) at zowie.pateman@charteredaccountantsanz.com or Ram Subramanian (CPA Australia) at ram.subramanian@cpaaustralia.com.au

Yours sincerely

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Attachment

Q1. Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(a)?

Proposed information that must be contained in a society's annual return:

- the society's name;
- the society's NZBN;
- the physical address of the society's registered office;
- the society's address for service;
- the society's balance date;
- the society's membership figure at the time of filing the annual return;
- the name and email address of the society's contact person;
- the names and physical addresses of the society's officers, noting that the physical address need not be their residential address;
- a certification that:
 - the information about the society on the incorporated societies register is up-to-date;
 - the membership figure included in the annual return is accurate;
 - an AGM was held and the quorum was met.

We recommend introducing a requirement for the annual return to include some basic financial information regarding total revenue, total operating expenses/payments, total assets, and total liabilities. This would be similar to the current annual return requirement for registered charities. As currently proposed, the content of the annual return is limited to administrative information such as names, addresses, and contact details. Since much of the information on the Register of Incorporated Societies ("the Register") derives from the annual return, the design of the annual return is integral to enhancing the data availability and search functionality of the Register. The inclusion of financial information in the annual return, and hence on the Register, would provide greater transparency, which in turn would improve trust and confidence in the sector.

We agree with the proposal of not specifying what information the annual report should include on the operations and affairs of the society. However, we recommend requiring that the annual report include any financial statements that are required to be prepared, and if those financial statements are required to be audited – the auditors' report. This would be consistent with [section 211](#) of the *Companies Act 1993*.

Q2. Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(b)?

We agree with aligning the date by which the annual return must be filed with the financial statement filing deadline – six months after balance date.

Q10. Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(j)?

Proposed definition of 'total current assets' which is used to define a 'small' society which is not required to use the XRB standards in the preparation of its financial statements:

"total current assets means total assets excluding fixed assets, where fixed assets are those items of property, plant, and equipment which are not expected to be sold within 12 months after the society's balance date"

We recommend clarifying the proposed definition of 'total current assets' as it is our view that the currently drafted definition could lead to ambiguity.

Firstly, the definition introduces an undefined term; 'total assets'. We recommend that this definition be aligned with [sections 45\(1\) and 45\(2\)](#) of the *Financial Reporting Act 2013* and [section 204\(3\)](#) of the *Companies Act 1993* which is defined in [Standard XRB A2 Meaning of Specified Statutory Size Thresholds](#).

Secondly, we note that there are other types of non-current assets that are not excluded from 'total assets', for example; long term investments such as term deposits with a term greater than 12 months, or shares that are not expected to be sold with 12 months after the society's balance date.

We note that a definition of the term 'current assets' already exists in accounting standards which could be used for this purpose. Paragraph 66 of [NZ IAS 1 Presentation of Financial Statements](#) states:

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 NZ IAS 7) 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.

Under paragraph 6 of [NZ IAS 7 Statement of Cash Flows](#) "cash" comprises cash on hand and demand deposits, and "cash equivalents", that are short-term, highly liquid investments which are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.

Q11. Do you agree with MBIE's proposal that no regulations should be made at this stage under section 254(1)(k)?

We support not prescribing additional requirements over and above those already in [section 104](#) of the *Incorporated Societies Act 2022*, for the financial statements of 'small' societies (as defined).

Q12. Do you have any comments on MBIE’s proposals regarding regulations under section 254(1)(l)? For example, do you agree that focusing on the proportion of societies that should be captured is appropriate?

Proposed threshold for requiring financial statements to be audited:

“Those societies not registered as charities for which, in each of the 2 preceding accounting periods, the total operating expenditure of the society and all entities it controls (if any) is \$3 million or more”

Any threshold is always going to be subjective. However, we are unconvinced that a threshold that captures just 1% of incorporated societies is sufficient. Whilst a comparison of current audit thresholds of companies and charities is useful (that is, that 0.4% of companies, and 8% of charities, are required to have their financial statements audited), this benchmarking exercise may not necessarily be the primary driver in determining the appropriate audit threshold for incorporated societies. The significant difference in the population of companies (0.4%) and charities (8%) that are subject to audit indicates that there are other factors that have been taken into account in determining the audit thresholds for those entity types. For example, the level of public interest is much higher in the integrity of charities’ financial statements, due to their income tax exemption. Also, the audit threshold for charities captures a larger proportion of that population accordingly.

We recommend that the audit threshold for incorporated societies is aligned with that of charities. This would mean that between 2% (expenditure >\$1.5m) to 3% (expenditure >\$890k) of societies would require an audit. We note from the table in section 2.2.12.2 of the CD that around 93% of societies with expenditure >\$1m have indicated they already have their financial statements ‘audited or reviewed’ (compared to 95% for those with expenditure >\$3m).

Using the same logic as that in paragraph 107 of the CD, alignment with the charities audit threshold will mean that only some, but not many, incorporated societies that have not yet been having their financial statements audited will need to start doing so. We believe this lower audit threshold will not only provide consistent regulation across both incorporated societies and charities it will also better serve the statutory criteria of “the desirability of promoting confidence in the integrity of financial reporting of incorporated societies”.

We also note that the term ‘total operating expenditure’ is not defined. We recommend that this definition be aligned with [section 42D](#) of the *Charities Act 2005* which is defined in [Standard XRB A2 Meaning of Specified Statutory Size Thresholds](#).

Q13. Do you have any comments on MBIE's proposals regarding regulations under section 254(1)(m)?

We note that there is no infringement offence proposed for not preparing financial statements or getting those financial statements audited (where an audit is required). We recommend the addition of an infringement offence in the case of wilful non-compliance with the financial statement preparation and audit requirements of the Act.

Q27. Do you have any comments on MBIE's proposals regarding regulations under section 256(1)(c)?

While the proposed fee of \$50 for re-registration appears nominal, we do not support the introduction of such a fee on the basis that re-registration is mandatory under the Act for the incorporated society to stay in existence. How the processing costs for this are funded is a matter for the Companies Office.