

5 October 2021

Financial Markets Authority
Level 2
1 Grey Street
Wellington 6140

By Email: consultation@fma.govt.nz

Discussion Paper: Proposed financial reporting exemptions for FMC reporting entities in liquidation, receivership or voluntary liquidation

CPA Australia represents the diverse interests of more than 168,000 members, including over 2,700 members in New Zealand, in over 100 countries supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

Issue 1: Whether our preferred option for relief is the best option

CPA Australia supports a class exemption for the removal of the financial reporting duties on a company (except for managed investment schemes), as prescribed under the Financial Markets Conduct Act 2013 ('FMC Act'), should that company enter an insolvent external form of administration which results in the deregistration of the company.

For the following reasons, we do not believe it is appropriate to place the responsibility of preparing audited financial statements on an external administrator, who has finite resources and competing stakeholder interests:

- audited financial statements are unlikely to provide value to company members and stakeholders due to the changing nature of a company subject to external administration,
- this additional obligation is unnecessary as an external administrator provides their own financial information to the Companies Office,
- the costs associated with the preparation and audit of these financial statements are best utilised in the restructure of the company and/or in obtaining monetary returns to creditors, and
- the audit of financial statements may be difficult to obtain should a company be in an insolvent external administration due to difficulties in obtaining audit evidence, and possible auditor reluctance to undertake the assignment due to these difficulties.

Issue 2: Scope of the relief

We recognise that the cost and time involved in preparing audited financial reports can be significant. However, this must be balanced with the obligations that all parties interested in the financial status of the company should have access to publicly available, audited financial information about that company. Accordingly, CPA Australia supports deferral relief for a period of up to 12 months for those entities that are subject to a voluntary administration, deed of company arrangement or have a receiver and manager appointed. Companies that can restructure or have their business sold, should provide adequate

disclosure to shareholders to protect shareholder interests. Any proposal to extend automatic relief should be on a case-by-case basis and reflect the intent to resolve the future of the company in a timely manner.

Issue 3: Conditions of relief

CPA Australia does not support an additional statutory financial reporting requirement should a company be insolvent and have a liquidator appointed, leading to the deregistration of the company. Providing notice of the liquidation via the already available public records should be sufficient for members and stakeholders.

In all other instances, CPA Australia supports a formal notification to members and stakeholders should a deferral of reporting relief be granted. This will provide members and stakeholders the necessary information to make informed decisions, whilst avoiding the disclosure of commercially sensitive information while an external administrator is attempting to restructure or sell a business for the benefit of creditors.

Issue 4: Factors for individual relief

In addition to the above suggestions, it is appropriate that individual relief be considered on its merits having regard to resourcing, historical compliance, stakeholder engagement, and the timing of the release of commercially sensitive information.

If you have any questions about our submission, please contact Kristen Beadle on +61 413 883 581 or at kristen.beadle@cpaaustralia.com.au, or Rick Jones, Country Head, New Zealand on +64 21 190 1039 or rick.jones@cpaaustralia.com.au.

Yours sincerely



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