



ASIC

Australian Securities & Investments Commission

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Dr Ian Holland
Committee Secretary
Parliamentary Joint Committee on Corporations
and Financial Services
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: Ian.Holland@aph.gov.au

Dear Dr Holland

Financial Reporting Panel

I refer to the Committee's request for a written brief from ASIC on the history and current status of referrals of matters to the Financial Reporting Panel, including reasons for the absence of referrals prior to the second half of 2010.

FRP process

We consider the FRP process to be a valuable process for resolving disputes between ASIC and a company over the accounting treatment in lodged financial reports. The FRP should be continued. The cost of maintaining the FRP is minimal given that it is supported by Treasury and has no premises or its own staff.

The Financial Reporting Panel ("FRP") was formed in 2006 pursuant to the CLERP 9 reforms. The FRP is an alternative to court proceedings. The FRP process is a more timely and less costly means of resolving disputes between ASIC and an entity over accounting treatments adopted in the entity's lodged financial reports. The FRP process aims to ensure the market is informed on a timely basis. Matters must be decided within 60 days (the FRP can extend this to 90 days) and legal representation is only permitted with consent of the FRP.

The FRP is an independent statutory body that allows matters to be heard by persons with familiarity of accounting standards and other financial reporting requirements of the Corporations Act 2001 ("the Act").

History of referrals

Since the FRP was formed in 2006, ASIC referred one matter to the FRP in July 2007 and four matters in August 2010.

The entity whose financial report was referred to the FRP in July 2007 changed its accounting treatment before the matter was heard by the FRP and the matter was withdrawn.

In October 2010, the FRP made its determinations in relation to the other four matters referred to it. The FRP agreed with ASIC on two matters and with the entities on the other two matters. In one of the latter two cases, the company provided substantial new evidence at the FRP hearing that should have been made available to ASIC previously.

Reasons for level of referrals

Reasons for the low number of referrals prior to 2010 may include:

- (a) Entities may have been hesitant to be the first to have their financial reports considered by the FRP due to the possible publicity associated with the first referral, as well as some uncertainty for entities with the previously untested FRP process. These should not be factors in the future;
- (b) The existence of the FRP may in itself have contributed to entities agreeing with ASIC to change their accounting treatments. Entities may be more willing for accounting treatments to be considered by the FRP in the future given that the FRP agreed with the entities in two of the cases referred by ASIC in 2010; and
- (c) In the first years since the adoption of the International Financial Reporting Standards ("IFRS") in Australia for years commencing on or after 1 January 2005, entities and their auditors were more willing to change accounting treatments. In those early years they would attempt to justify changes in accounting treatment as flowing from early learning experiences with the interpretation and application of the new standards. Several years from the adoption of IFRS, this excuse can no longer be used by entities.

Hence, it is likely that the number of referrals to the FRP will be higher in the future.

Future referrals

ASIC undertakes an extensive due process with entities before considering referring a matter to the FRP. In the majority of cases, either we will decide to take no further action having regard to the explanations and information provided by an entity in support of its treatment or the entity will agree to change its treatment. While we attempt to resolve disputes with entities over the accounting treatments without referring their financial reports to the FRP, we expect there to be an increased number of cases where these disputes cannot be resolved between ASIC and an entity in the future.

It is difficult to determine the number of referrals that will be made to the FRP in the next 12 months. This will depend upon whether ASIC and individual entities reach agreement on any inappropriate accounting treatments.

At any time, ASIC will be in the process of discussing accounting treatments with a number of entities. It is generally difficult to determine how many of those will give rise to FRP referrals. However, an accounting treatment that we are currently discussing with one particular company is likely to be the subject of a referral to the FRP in the next couple of months.

Please do not hesitate to contact me should you have any questions.

Yours sincerely



Tony D'Aloisio
Chairman