Grant Thornton

General Manager
Corporations and Capital Markets Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: corporations.amendments@treasury.gov.au

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Grant Thornton Australia Limited
ABN 41 127 556 389

Level 17, 383 Kent Street
Sydney NSW 2000
PO Locked Bag Q800
QVB Post Office
Sydney NSW 1230

T +61 2 8297 2400
F +61 2 9299 4445
E info.nsw@grantthornton.com.au
W www.grantthornton.com.au

Dear Sir/Madam,

Exposure draft – Corporations Legislation Amendment (Remuneration Disclosures and Other Measures) Bill 2012

Grant Thornton Australia Limited (Grant Thornton) is pleased to provide Treasury with its comments on the Australian Government's Exposure Draft – Corporations Legislation Amendment (Remuneration Disclosures and Other Measures) Bill 2012. Grant Thornton's response reflects our position as auditors and business advisers to listed and privately held companies, not-for-profit entities (NFPs), and other businesses.

This submission has benefited with input from our clients, Grant Thornton International, and discussions with key constituents.

1. Payment of Dividends

Grant Thornton does not support the amendments to the Section 254T of the Corporations Act as it believes that the amendments do not overcome the flaw that was introduced in the 2010 amendments to the Corporations Act on payment of dividends. Instead Grant Thornton believes that there should only be a solvency test for payment of dividends.

The original intention of the dividends reform which before 2010 had 2 elements being: solvency and profits, was to eliminate the profits test and instead just rely upon solvency which is a requirement that has applied in New Zealand and many other overseas jurisdictions. Unfortunately late changes to the Dividends project replaced the profits test with an assets test that increases the complexity of paying a dividend. Whereas the pre 2010 profits test was not specifically linked to accounting standards requirements, the 2010 amendments that require an assets test are specifically linked to accounting standards. Given that there is no longer a capital maintenance requirement in the Corporations Act, there is no need to require a specified level of assets or profits linked to accounting standards, before paying a dividend.

2. Remuneration Report

Grant Thornton supports in principle the objective of the proposal which is to improve the disclosure requirements, however we believe that there should be a fundamental review of the remuneration report requirements rather than ad hoc changes, as remuneration reports are becoming too long, confusing and are just not read. What is needed is a clear requirement to disclosure total remuneration and the cash component of that remuneration with reconciliation between the 2 amounts, and an explanation and analysis of what part of both the cash component and the total remuneration relates to the financial year, and what relates to prior financial years.

3. Clawback of Remuneration

Grant Thornton supports in principle the clawback disclosure requirements, however we believe that such disclosures are better dealt with through the Australian Securities Exchange's Corporate Governance Council's Principles as they are more appropriate to the 'if not, why not' Principles rather than specific legislation.

4. Relieving Unlisted Companies from a Remuneration Report; Relieving Public Companies from Audit where not Required; and Statutory Office Holder Remuneration

Grant Thornton supports these amendments. We see the relief being provided from audit for those companies where an audit is not required, as simply clarification of what the intent and the reality of the 2010 Corporations Act amendments.

If you require any further information or comment, please contact me.

Yours sincerely
GRANT THORNTON AUSTRALIA LIMITED

Keith Reilly

Keith Reilly
National Head of Professional Standards