



Australian Government

The Treasury

IMPROVING THE INTEGRITY OF PUBLIC ANCILLARY FUNDS

SUMMARY OF CONSULTATION PROCESS

The Government announced in the 2010-11 Budget that it would improve the integrity of public ancillary funds by introducing a new regulatory framework similar to that introduced on 1 October 2009 for private ancillary funds. This measure is to take effect from 1 January 2012.

This measure was included in Tax Laws Amendment (2011 Measures No. 7) Bill 2011, which was introduced into Parliament on 21 September 2011.

Consultation process

Public consultation on a discussion paper was conducted between 19 November 2010 and 17 December 2010. 46 submissions were received.

Submissions on the discussion paper can be viewed on the [Treasury website](#).

Public consultation on the draft legislation was conducted between 14 July 2011 and 1 August 2011. 8 submissions were received.

Submissions on the draft legislation can be viewed on the [Treasury website](#).

Summary of key issues

There has been wide support for the regulatory changes proposed in the draft legislation. There was broad acknowledgement that these reforms are largely based on the previous and very successful reforms to private ancillary funds with appropriate changes having been made to reflect differences in character of public ancillary funds.

Philanthropy Australia and some community funds requested that the core rules provide for portability of assets between ancillary funds (both public and private). A mechanism has been provided in the legislation to provide for portability of assets between ancillary funds.

The Public Trustees of the States and Territories sought exclusion from the requirement that a new public ancillary fund have a trustee which is a constitutional corporation as these trustees are governed by State and Territory legislation and oversight is provided by State and Territory Auditors-General. The legislative framework has been modified to exclude them from this requirement.

Two Church groups had some broader concerns with the proposed regulatory framework including possible compliance costs for small funds and the requirement that the trustee of a new public ancillary fund be a constitutional corporation.

In response, the draft legislation was changed to provide a mechanism for funds that require additional time to meet the requirement that a public ancillary fund have a constitutional corporation as trustee.

Public consultation on the draft guidelines was conducted between 14 July and 31 August 2011.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au. Alternatively, you can contact Chris Leggett on (02) 6263 3357. Thank you to all participants in the consultation process.