



The Manager
Corporate Reporting and Accountability Unit
Corporations and Capital Markets Division
The Treasury
Langton Crescent
PARKES ACT 2600

2 December 2011

Dear Sir / Madam

Thank you for the opportunity to contribute to the future of the Financial Reporting Panel (FRP).

We support retaining the FRP. In our view, the presence of an independent body helps focus the actions of ASIC and companies to resolve disagreements over financial reporting compliance directly. As the FRP is used only occasionally, we believe this is testimony of its success in this 'deterrent' role. The low cost structure, timely mechanisms for resolving a dispute and specific expertise of the FRP compared to the court system further supports the important value and role the FRP plays.

However, we believe there are opportunities to make the FRP more nimble and effective – to broaden the pool of skills and experiences available on the panel and to ensure its focus is on disagreements over compliance with accounting standards rather than disagreements over interpretation of accounting standards (which are more appropriately handled by the International Financial Reporting Interpretations Committee (IFRIC)).

We have outlined a number of initial ideas to consider in this submission. We would warmly welcome the opportunity to continue to explore these ideas with Treasury and the profession.

Please do not hesitate to contact me on (03) 8603 3868 if you would like to discuss this further.

Yours sincerely

A handwritten signature in black ink that reads 'Jan McCahey' in a cursive script.

Jan McCahey
Partner



APPENDIX

Why do you believe the level of FRP referrals has been less than initially anticipated?

We believe the occasional use of the FRP is testimony of its success as a ‘deterrent’ body which helps focus the parties on resolving the disputes directly.

In our experience, there are two main types of disputes over the application of accounting standards – disagreement over interpretation and disagreement over compliance. The majority of disputes involve disagreement over interpretation and are usually handled directly by IFRIC. We strongly believe this should remain the case and the FRP should only be activated as part of ASIC’s enforcement activities.

What factors do you believe may need to be addressed in order for the FRP to function more effectively?

A challenge of the current environment is the constant change to accounting standards and their practical applications – and commercial implications. We recommend a review of the appointment process and current panel member mix. This would help ensure the right combination of skills, experience and commercial acumen can be drawn from the panel at any one time. For example, we would encourage:

- Including representatives from each of the large accounting firms on the panel. Our view is the experience and practical insights brought by current serving or recently retired Partners of the large firms would be very beneficial and broaden the skills and commercial experience from which the FRP could draw for each case. Conflicts of interest could be dealt with by having a larger pool of panel members, similar to the Takeovers Panel, and by applying the current rules relating to panel members.
- Regular renewal of panel members to ensure the panel’s collective practical experience and knowledge remains current. This could be achieved by reducing the maximum five year term to three years.
- A transparent panel member appointment process which is overseen by an appropriate senior independent professional, such as the Chairman of the AASB.

We note from previous FRP annual reports that costs have been significantly reduced in periods of no activity.

Do you believe that the current process and powers of the FRP are effective and appropriate, and do not require any significant reform?

We believe that some reforms are warranted to further enhance the FRP’s effectiveness. As indicated, this particularly relates to panel member appointment and skill sets; and the focus of the FRP on compliance disputes not interpretation matters.

We also agree with Treasury’s assessment that the FRP should retain its purpose as an independent body and should not become involved more directly in financial reporting surveillance akin to the Financial Reporting Review Panel in the UK.



Do you believe that disputes should be automatically referred to the FRP after a specified time period?

No: for the reasons already outlined by Treasury.

However we consider the dispute resolution process undertaken by both ASIC and the organisation could benefit from greater discipline to ensure issues are appropriately explored before referral to the FRP and unnecessary costs to the public avoided.

We note there are concerns about the speed with which ASIC is sometimes able to refer matters to the FRP. We do not consider mandating a time frame is the answer but rather understanding and addressing the underlying cause for these delays.

Other options to consider could include an advisory panel to provide ASIC with a second opinion before it decides to refer to the FRP. For the organisation, it could include the onus to confirm its position is robust and well supported by independent experts.

If so, what is an appropriate point for the period to commence, and how long should ASIC and the entity have to resolve the issue directly?

Not applicable in light of our previous response.

Do you believe that companies should be allowed to refer cases to the FRP without ASIC's consent?

No. Our strong view is that only disputes over compliance with accounting standards (as part of ASIC's enforcement activities) should be referred to the FRP. Such cases would be referred to the FRP by ASIC when they were unable to reach resolution directly with the company. Disputes over interpretation of accounting standards should be referred to IFRIC.

Do you believe that such a change would have a material impact on the number of referrals coming forward?

Not applicable in light of our previous response.

Do you believe that the FRP's functions should be repealed and the Panel closed?

No. We believe there is considerable merit in maintaining an independent body which, by its sheer presence, acts to regulate the actions of ASIC and companies and encourages both parties to resolve disagreements directly. The low cost structure, timely mechanisms for resolving a dispute and specific expertise of the FRP compared to the court system further supports the important value and role the FRP plays.