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24 February 2012

Impacts and Benefits of COAG Reforms
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Sir / Madam

Impacts of COAG Reforms: Business Regulation and VET

The TCA is the peak representative body for the trustee corporations industry in Australia.

It represents 16 organisations, comprising all 8 regional Public Trustees and the great majority of the 11 private 'licensed trustee companies'.

Our members provide a wide range of financial services to individual, family and corporate clients, involving the management / administration of about \$500b in assets.

Member services include:

- traditional activities, such as estate planning, wills, powers of attorney, deceased estate administration, and management of various types of personal trusts.
- superannuation fund trustees / administrators.
- responsible entities for managed investment schemes.
- other corporate activities such as debenture trusteeships, securitisation facilities and custodial services.

We are very pleased to have the opportunity to comment on the discussion draft *Impacts of COAG Reforms: Business Regulation and VET*.

Comments

Overview

Page 29:

- Amend the 2nd last sentence in the last paragraph as follows:

ANZ Trustees
Australian Executor Trustees
Equity Trustees
National Australia Trustees
New South Wales Trustee and Guardian
Perpetual
Public Trustee for the Australian Capital Territory
Public Trustee for the Northern Territory
The Public Trustee of Queensland
Public Trustee South Australia
The Public Trustee Tasmania
Public Trustee Western Australia
Sandhurst Trustees
State Trustees Victoria
Tasmanian Perpetual Trustees
The Trust Company

“Similarly, the extension of the Corporations Act to cover trustee companies and the subsequent repealing of legislation by State and Territory governments ~~will see~~ has seen the Australian Government assume regulatory responsibility.”

Chapter 5

As a general point, the term ‘trustee companies’ should be used when referring to those privately owned entities which are covered by the new national regulatory regime, whereas ‘trustee corporations’ should be used when referring to trustee companies and Public Trustees as a group.

Page 84/85:

- In the 1st paragraph on p84 after the 2 dot points, amend the 1st sentence to read:

“.....in 2011 (and some more are proposed for 2012), aimed at...”

- Amend the first 3 paragraphs in the section headed ‘Traditional service providers’ as follows:

“The main group affected by the reforms are trustee companies themselves. The trustee company market is relatively concentrated, with only 11 groups in operation in Australia.

Most existing trustee companies operate in multiple jurisdictions. Of the 11 groups that are members of the Trustee Corporations Association of Australia (TCA), all but one operated in multiple jurisdictions. The most jurisdictions in which any one group operated was seven, with TCA members operating, on average, in four jurisdictions (TCA 2011). Further, where a trustee company group operates in multiple jurisdictions, they may do so through the same legal entity or through a separate subsidiary company in each State or Territory. Under the previous State / Territory regime, each of these entities was required to be licensed. Under the new arrangements, there will be scope to consolidate subsidiary companies and to operate nationally with one licence.

In 2010, TCA members had approximately \$500 billion in assets under management, of which around \$25 billion was related to traditional services.”

Page 87:

- Delete the 1st dot point as similar requirements applied under the old regime.

Page 90:

- Amend the last sentence of the 1st paragraph under ‘5.6 Opportunities for improvement’ to read:

“..... improvement in this area – when introducing the new regime, the Government undertook to review charitable trust fee arrangements after 2 years (ie: after 5 May 2012).”

Financial impact

We have no comment on the draft report's estimate that the single national regulator will save industry about \$3m per annum, with transition costs likely to cancel out that benefit in the first year.

Scope for further improvement

As noted in the draft report, a major benefit of the move to a national regulatory regime for trustee companies would be in terms of facilitating industry consolidation.

While progress on this matter has been slower than initially anticipated, ASIC last month issued a consultation paper on proposed administrative arrangements for transfers of business and relevant members should be able to proceed with planned consolidations in the second half of this year.

Also, as noted above, the 'grandfathered' arrangements for charitable trust fees are expected to be reviewed shortly.

We have no other suggestions at this time for further significant improvements in the regulatory framework for trustee companies.

Yours faithfully

Ross Ellis

Executive Director