



15 October 2021

Individuals and Indirect Tax Division
The Treasury
Langton Cres
Parkes ACT 2600

Submitted by Email

Dear Sir/Madam,

Australian Charities and Not-for-profits Commission Amendment (2021 Measures No. 3) Regulations 2021

Philanthropy Australia appreciates the opportunity to make this submission regarding the exposure draft of the *Australian Charities and Not-for-profits Commission Amendment (2021 Measures No. 3) Regulations 2021*.

As the peak body for philanthropy in Australia, our purpose is to serve the philanthropic community to achieve more and better philanthropy. Our membership consists of approximately 750 trusts, foundations, organisations, families, individual donors, professional advisers, intermediaries and not-for-profit organisations.

Philanthropy Australia takes a strong interest in the design of the taxation and regulatory framework that applies to philanthropy and charities more broadly, advocating that it be based around principles of simplicity, clarity, certainty and ensuring there are appropriate incentives to encourage philanthropy.

Philanthropy Australia is supportive of the changes contained in the draft regulations, and we welcome progress being made regarding the implementation of recommendations from the Australian Charities and Not-for-profits Commission (ACNC) Legislation Review.

Some additional comments are provided below.

Increasing the Revenue Thresholds for Determining ACNC Reporting Tiers

Philanthropy Australia notes that the draft regulations will increase the revenue thresholds used to determine a registered charity's reporting tier under the ACNC regulatory framework, as per the table below.

Registered charity size	Small	Medium	Large
Current annual revenue threshold	Less than \$250,000	\$250,000 to less than \$1 million	\$1 million or more
New annual revenue threshold as set out in the Regulations	Less than \$500,000	\$500,000 to less than \$3 million	\$3 million or more



Based on the information provided in the draft explanatory statement, we understand that approximately 5,200 charities that move to a lower reporting tier because of the changes proposed. This is likely to include various philanthropic organisations.

Philanthropy Australia believes that the changes strike an appropriate balance between reducing regulatory obligations, including costs associated with having financial statements audited or reviewed, and the need to maintain appropriate levels of accountability and transparency.

Those registered charities which will move into the lowest reporting tier will still have to report financial and other information through the Annual Information Statement, meaning that this information will still be able to be reviewed by the ACNC and will also be publicly available (unless an exemption from publication on the ACNC Register applies).

Philanthropy Australia does note that work is underway to harmonise reporting arrangements for registered charities across all Australian jurisdictions. This includes addressing the inconsistent framework for fundraising regulation, which imposes an unnecessary burden on charities. We encourage this work to continue, and emphasise the importance of the proposed changes being aligned with this process.

Requiring Registered Charities to Disclose Related Party Transactions

The draft regulations will introduce a requirement for registered charities to disclose related party transactions. For medium and large registered charities, these will be disclosed in financial statements and the Annual Information Statement, irrespective of whether a registered charity prepares General Purpose or Special Purpose Financial Statements. For small charities, there will be a simplified requirement to disclose such transactions in the Annual Information Statement.

Philanthropy Australia believes that such disclosure represents good practice, and that a more consistent approach to such disclosure will assist with ensuring that any related party transactions entered into by registered charities are appropriate. We therefore support the change.

Given that the details of how such transactions will be disclosed in the Annual Information Statement will be determined by the ACNC, we expect that the ACNC will consult stakeholders as part of implementing this change, and look forward to participating in such consultation.

Requirement for Disclosure of Remuneration Paid to Responsible Persons and Senior Executives

Philanthropy Australia recognises the Australian Government's desire to promote transparency of large registered charities by requiring them to disclose the aggregate remuneration of senior executives and responsible persons in their Annual Information Statement.

We support the exemption included in the draft regulations, which will ensure that this requirement only applies to large registered charities and that it does not apply where a large charity has only one senior executive or responsible person that is remunerated.

Philanthropy Australia does note that there can be certain misconceptions about remuneration by charities, including a view that charities should pay their staff lower salaries than for-profit organisations. This is a problematic misconception, given that attracting skilled and experienced staff

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is critical to charities furthering their purposes and benefiting the community, and this includes providing proper remuneration.

We therefore believe that it is necessary to ensure that proper guidance is provided by the ACNC to accompany the disclosure of such information, in order to try address these misconceptions and avoid a situation where the proposed changes possibly reinforce these misconceptions.

Conclusion

Philanthropy Australia once again thanks the Treasury for the opportunity to make this submission. Should there be a desire to discuss any of the matters raised in this submission further, please do not hesitate to contact Philanthropy Australia's Director of Policy, Government Relations and Research, Sam Rosevear (sam@philanthropy.org.au, 1300 511 500).

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Jack Heath".

Jack Heath

CEO

Philanthropy Australia