

5 February 2019

[REDACTED]

1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to provide a submission to Treasury's consultation on ASIC Industry Funding Model and Registry Search Fees.

The ACNC's role

2. The ACNC was established on 3 December 2012 by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**). The objects of the ACNC Act are to:
 - maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
 - support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
 - promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.¹
3. Over 57,000 charities are regulated by the ACNC.² Australia's charities deliver services, make grants and perform a wide range of other activities to advance health, education, welfare, religious and other charitable causes. Charities range in size from extra small (less than \$50,000 – around 40% of all charities) to extra large with revenue over \$100 million (less than 1% of all charities). Half of charities have no paid staff, and the sector is supported by 2.9 million volunteers.³
4. Many registered charities are also registered with ASIC and subject to particular provisions of the *Corporations Act 2001* (Cth) (**Corporations Act**). The largest proportion of these charities are companies limited by guarantee.

¹ ACNC Act, section 15-5.

² See www.acnc.gov.au for the most up to date figure for registered charities.

³ 2016 Australian Charities Report – available [here](#).



ACNC supports amendment to auditor resignation fee

5. The ACNC strongly supports the proposed introduction of item 82A to the table in Schedule 1 of the *Corporations (Fees) Regulations 2001* (Cth) (**Regulations**), to reduce the prescribed fee for an application to ASIC by an auditor of a company to resign, under section 329(5)(a) of the Corporations Act.
6. This new item would replace the current item 80 of the table in Schedule 1 of the Regulations, which currently applies a fee of \$3,487 to applications by an auditor to resign. This fee came into effect on 1 July 2018, and was a significant increase from the previous \$39 fee. The \$3,487 fee applies to auditors of charities to which section 329 of the Corporations Act applies.⁴
7. The proposed change would benefit all ACNC registered companies that are required to appoint an auditor, which includes all public companies limited by guarantee with:
 - annual revenue over \$250,000;⁵ or
 - endorsement as a deductible gift recipient.⁶
8. The introduction of Item 82A to the table in Schedule 1 of the Regulations will allow charitable companies that are required to appoint an auditor to freely remove and replace its auditor without incurring excessive fees. The ACNC has received anecdotal evidence that the current fee is causing charities to retain auditors who may not be best suited to that particular charity, and more generally acts as a disincentive for appropriate rotation of auditors for good governance. For charities, the fee represents a large sum of money which could be better spent achieving the charitable purpose for which the charity exists.
9. We note that, as stated in the Explanatory Memorandum, the reduction in price will also more accurately reflect the cost of ASIC in providing this particular service.

Further Information

10. The ACNC can provide further information on any of the above, should this be useful to Treasury. Contact information is provided below.

Contact:



Officer, Legal and Policy

⁴ With the exception of small companies limited by guarantee (as defined in section 45B of the Corporations Act), which are not subject to section 329.

⁵ Under section 60-25 of the ACNC Act, all large charities (over \$1 million in annual revenue) must have their financial reports audited. Medium charities (annual revenue \$250,000 to \$1 million) can have their financial reports reviewed rather than audited under the ACNC Act, but the application of sections 327A and 327B of the Corporations Act means they are still required to appoint an auditor.

⁶ The section 45B Corporations Act definition of small companies limited by guarantee excludes companies which have deductible gift recipient status, which means relevant exceptions in sections 327A and 327B of the Corporations Act do not apply.