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15 August 2016

Dear Mr McNamara

### **Regulation Impact Statement – Second-Pass final assessment**

We refer to the letter dated 14 July 2016 from Tony Simovski to Alex Purvis at ASIC. In response to that letter, we attach an updated draft Regulation Impact Statement (RIS).

The RIS is prepared for the renewal and update of the regulatory framework for charitable investment fundraisers under the Corporations Act 2001 (Corporations Act). The regulatory burden to business, community organisations and/or individuals has been quantified and offsets have been identified and quantified using the Regulatory Burden Measurement framework. These have been agreed with your office.

We believe the RIS is compliant with OBPR's requirements and is consistent with the ten principles for Australian Government policy makers. We are satisfied that, to the extent possible, the RIS now addresses the suggestions made in your letter of 14 July 2016.

Specifically, we have addressed the comments outlined in Attachment A to your letter as follows:

1. In relation to the size of the problem, including how weaknesses in the charitable investment sector pose a significant risk, we have provided additional information about:
  - a) the size of the charitable investment fundraiser industry, including information about the proportion of the industry that are Religious Charitable Development Funds (RCDFs) and the size of the industry relative to the Australian financial sector see paragraphs 1-8 and paragraphs 28-35);
  - b) concerns ASIC has about the risks associated with the shadow banking sector (which includes charitable investment fundraisers), which it shares with APRA (see paragraphs 65-71 and 88-95);

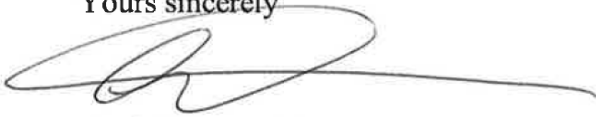
- c) concerns ASIC has about the lack of disclosure and transparency about charitable investment fundraisers (see paragraphs 88-95);
  - d) how ASIC's relief for charitable investment fundraisers contained in ASIC Class Order [CO 02/184] Charitable investment schemes -fundraising will sunset on 1 October 2016 if not remade before this date, the significant burden this would cause to the industry if the relief was allowed to lapse and why ASIC considers the relief should be renewed with relatively minor modification (see paragraphs 18-25 and Option 2 discussed throughout the RIS); and
  - e) why ASIC regulation is necessary alongside APRA regulation in this sphere, to, amongst other matters:
    - (i) promote investor protection through the removal of the licensing exemption where charitable investment fundraisers raise funds from non-associate retail clients and through the introduction of modified or new requirements (see above mentioned paragraphs as well as paragraphs 110-115); and
    - (ii) ensure that there is a level playing field between RCDF and non-RCDF charitable investment fundraisers (see paragraphs 28-35).
2. Provide further quantitative analysis of the impacts of the options: We have provided additional information:
- a) to quantify the financial impacts of the options on the industry, and in particular, have provided further analysis of the impacts of imposing restrictions on the provision of at-call and short-term investments in line with APRA regulation in this sphere (see paragraphs 131-135);
  - b) about the impacts on investors and other stakeholders, including the impact the options have on the volume and scope of charitable work that charitable investment fundraisers undertake (see paragraphs 128-161);
  - c) to explain how the disclosure and individual disclosure statement requirements, whilst unique to charitable investment fundraisers, are less onerous than the requirements that would apply to charitable investment fundraisers if exemptions from the fundraising, managed investment and debenture provisions within the Corporations Act were not extended or were allowed to lapse (see discussion about Option 2).
3. Provide a more detailed and comprehensive summary of the views of stakeholders: We have provided further information about the number of respondents who provided certain submissions, without identifying the specific respondents consistent with ASIC's confidentiality obligations. All non-confidential submissions will be published with our Report on Submissions. We have confirmed that while investors were also invited to make submissions, no submissions from investors were received (see paragraphs 185-219).

4. Demonstrate why ASIC's preferred option is likely to result in both a net benefit and the highest net benefit: We have provided additional information to show that while our preferred option (Option 1) will likely result in increased costs for the industry, the likely benefits that Option 1 brings in terms of enhancing investor protections, reducing risks associated with shadow banking and aligning the regulatory regime of charitable investment fundraisers more closely with those of products in similar markets, is likely to result in the highest net benefit compared with the Options 2 and 3 (see paragraphs 220-229 and paragraphs 235-239).

Accordingly, we are satisfied that the RIS now meets best practice consistent with the *Australian Government Guide to Regulation*.

We submit this draft RIS to the Office of Best Practice Regulation for formal final assessment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gerard Fitzpatrick', with a long horizontal flourish extending to the right.

Gerard Fitzpatrick  
Senior Executive Leader  
Investment Managers and Superannuation