



MACCABI VICTORIA SPORTS FOUNDATION SUBMISSION: IMPROVING THE INTEGRITY OF PRESCRIBED PRIVATE FUNDS (PPFS)

This submission responds to the Treasury recent discussion paper “Improving the Integrity of prescribed private Funds (PPFs).”

Maccabi Victoria Sports Foundation agrees with several areas for improvement however disagrees with several proposed amendments which are detailed below following the consultation questions posed.

Areas of agreement

Regular valuation of Assets at market rates

While we agree with the revaluation of assets, we believe the period of two years may be insufficient. In a situation where this PPF inherited or received a donation of property it is likely to be held for a period until a capital project is commenced or the market situation is appropriate for sale. It is possible that a major capital project (e.g. \$20 million) may need to accumulate income over 3-4 years.

Consultation Questions

1. The issue of the period should be considered and the Commissioner should be given the power to vary the period in some circumstances as described above.

Increased public accountability

This PPF already operates in the way proposed and sees no barrier to introducing this requirement for all PPF's.

Consultation Question

1. To improve and standardize public accountability of PPF's provision of a pro forma annual report would simplify comparability between PPF's.
2. We have no concerns with provision of the name of Trustees and public officers of the PPF to the public and address of the PPF to protect individual privacy.



Give the ATO greater regulatory powers

We support the proposal to give greater regulatory powers.

The proposed Corporate Trustee qualifications are very narrow for a Foundation of this type. Trustees have identified broader qualifications and experience of Trustees to effectively manage the business of the Foundation. We recommend the qualifications be widened to include other professional and business qualifications.

This Foundation aims to appoint a limited number of Trustees who are in younger age groups and women. These Trustees are being developed professionally by experienced Trustees to take responsibility for their community but they would not be eligible for appointment unless the qualifications are broadened.

Consultation Questions

1. two year should be a sufficient transitional period to comply with new guidelines depending on those introduced. For any we oppose we would support a five year period of transition.
2. there should be no cost with corporate Trustee proposal as most of our Trustees would already comply.

Introduce Fit and proper test for Trustees

this PPF already has a high standard set with all Trustees meeting the standards required of a Company Director.

Consultation Questions

1. Suggest criteria similar to that required of a director of an approved deposit taking institution (ADI) as detailed in Prudential Standard APS 520 i.e a person who possesses the competence, character, diligence, honesty, integrity, and judgment to properly perform duties of a responsible person, not be disqualified to act as a director and have no conflict of interest. The actual Fit and proper test is determined by the Board of the ADI.

More relevant provisions from model Trust deed into the guidelines

Agree

Consultation Questions

1. None noted
2. None identified

Areas of disagreement

Required Distributions

Requiring minimum distributions will impact PPF's which accumulate capital for major capital projects such as Maccabi Victoria Sports Foundation secured funds from members and supporters to build sporting facilities.

As an example we recently completed construction of a Tennis Centre comprising eight courts and a pavilion for the benefit of our Tennis Club and the local community. The funds required to build the facility were secured over three years and expended over fifteen months. A requirement to expend a prescribed amount would adversely impact our accumulation plan.

As the Foundation grows in the coming years the Trustees also plan to build a corpus which would sustain the Foundation and fund staff salaries (currently funded by a philanthropic supporter). each year interest would be expended on programs and services approved by the Australian Sports Foundation through which tax deductibility for donations is secured.

Consultation Questions:

1. We do not support a change to the minimum distribution rate as it would impact accumulation of funds for major capital projects.
2. The Commissioner should have flexibility to modify minimum amount according to market conditions. As the current economic crisis demonstrates in some years interest and accumulation may be severely limited.
3. A lower distribution rate should apply to newly established PPF's and for a five year period to enable a corpus to build.

Minimum PPF Size

A minimum PPF size would impact adversely PPF's which rely on members and supporters in the establishment and building phase over five years and those which fund capital projects as in some years funds may drop as a project is completed.

Consultation Questions

1. A minimum size is not appropriate unless the minimum is very low and the Commissioner has flexibility to change in light of specific circumstances.
2. Minimum size should be \$50,000 at most.
3. No a fund should not have to distribute all its capital when the total value falls below this amount as it may be a transitory phase due to budget cycle and capital project funding cycles.



Limit the number of PPF donors

There should be no limit on the number of PPF donors because it would inhibit the development of a Foundation such as ours which relies on increasing the number of members and supporters over time. While some members will give annually others give less frequently, a larger number enables Trustees to smooth income and provide predictability on income over time.

Consultation questions

1. There would be disadvantages if a cap were introduced on the number of donors to a PPF. Our PPF currently has over 100 donors.
2. Conversion from a PPF to a PAF is not an acceptable mechanism according to our legal advice due to the capital focus of our activity we do not wish to distribute all funds annually.
3. What rules could be used to deal with conversion from PPF to PAF – no comment.

Restrict PPF investments to only liquid assets

We are opposed to this amendment as we foresee potential for a member to donate property or to be bequeathed a share portfolio. In this circumstance we would wish to hold the property or shares until the market is most favourable for a sale. the current economic situation is an example of a time we would not wish to divest such assets due to poor return and consequent disadvantage to the PPF.

Consultation Questions

1. There would be significant disadvantages from introducing this limitation to existing PPF investment rules.

Conclusion

The Maccabi Victoria Sports Foundation is gradually building support and membership and has achieved one major project to date. Trustees in general support the Treasury aim of improving accountability and transparency of PPF's and move to ATO oversight however several proposals would have significant adverse impact on this Foundation and its operation and are strongly opposed.