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04 March 2008

Greenhouse and Energy Reporting Taskforce,
Department of Climate Change,
GPO Box 854,
CANBERRA ACT 2601

By email: reporting@climatechange.gov.au

Re: Regulations Policy Paper submission

CPA Australia appreciates the opportunity to comment on the Regulations Policy Paper released by the Department of Climate Change (the Department).

As Australia's pre-eminent professional association, representing the diverse interests of more than 117,000 finance, accounting and business advisers, we are committed to working with governments and their agencies to ensure current and future economic and social policies foster an environment that facilitates sustainable economic growth.

The views expressed in this submission represent our evolving understanding of the implementation issues emerging from the *National Greenhouse and Energy Reporting Act 2007 (NGER Act)*. Where there is any inconsistencies between our previously stated positions and the positions made in this submission, the current positions supersede those previous positions. This is particularly so with our position on 'assurance' as opposed to 'audits' as explained below.

External Auditing and External Auditors

We are strongly of the view that as opposed to the Greenhouse Energy Data Officer (GEDO) engaging in the development of assurance requirements, the same objective would be better achieved by the legislative instrument made under section 75 of the *NGER Act* including direct reference to ASAE 3000 *Assurance Engagements other than Audits or Review of Historical Financial Information* issued by the Auditing and Assurance Standards Board (AUASB). To illustrate, the legislative instrument would include a requirement that an engagement performed under section 74 be done in accordance with ASAE 3000.

On this note, we request that references to external audits and external auditors be clarified to refer instead to (external) assurance and assurance practitioners respectively. Assuming the proposed use of ASAE 3000, the standard clearly indicates that an engagement under section 74 is an assurance engagement. Audit engagements and assurance engagements perform different purposes under the AUASB pronouncements including ASAE 3000. The terminology used in the *NGER Act* should therefore be consistent with the terminology used in the prescribed AUASB standard. Using the two terms interchangeably is most likely to create confusion, especially amongst auditors and assurance practitioners.

We would also like to take this opportunity to bring to the attention of the Department the proposed standard ASAE 3100 *Compliance Engagement* issued by the AUASB. This proposed standard has been developed as an adjunct standard to ASAE 3000 and is directed towards the conduct of compliance engagements by assurance practitioners. This proposed standard suits the purpose of an engagement performed under section 74 therefore we recommend that only ASAE 3100 to be referenced when and if it is issued by the AUASB.

Requirements for External Auditors

We are of the view that the reliability of emissions, energy consumption and energy production information is a function of subjecting the disclosures to assurance and ensuring that these engagements are conducted by appropriate individuals. Accordingly, we generally support the requirements identified in the Policy Paper. In particular we consider it most important for the party performing the assurance engagement to be independent. Akin to traditional financial statements audit engagements, independence of the assurance practitioner is critical to ensuring the integrity and reliability of the assurance report.

Professional bodies like CPA Australia and Engineers Australia have in place well established and extensive codes of ethics to ensure their member act in the public interest. Members of professional bodies are compelled to meet minimum standards of education and experience, abide by a code of ethics as well as other standards of professional conduct (including quality assurance processes) in which the concept of independence is central. We therefore recommend that possession of professional membership(s) be recognised in the regulations as one pathway to be eligible as an 'assurance practitioner' under the *NGER Act*. Such membership will ensure assurance engagements performed in this area achieves a minimum standard of quality.

Professional bodies can also assist the regulator determine what necessary knowledge and expertise is required to be an eligible auditor under the *NGER Act* through a competency standard. By way of reference, the professional accounting bodies have developed an audit competency standard to assist the Australian Securities and Investments Commission (ASIC) determine whether the skills and experience of an applicant are sufficient to register them as a company auditor. We therefore recommend that the regulations draw upon sections 1280 and 1280A of the *Corporations Act 2001* and determine that the knowledge and expertise eligibility requirements be detailed in competency standards drawn up by the professional bodies and approved by the GEDO.

Definition of Scope 1, 2 and 3

We note the Policy Paper states that there is widespread support for the use of definitions based on the *Greenhouse Gas Protocol* and the *Standard for Greenhouse gases – Part 1: Specification with guidance at the organisation level for quantification and reporting of greenhouse gas emissions and removal* (ISO 14064-1). As was stated in our submission on the *National Greenhouse and Energy Reporting System Regulations Discussion Paper*, we strongly counsel against adopting more than one source for standards. This is not consistent with the development of robust requirements and could lead to arbitrage opportunities for regulated entities. For example, they may choose a definition of Scope 2 emissions which may result in reporting less emissions than the alternative. Comparability of information is paramount in a well functioning market. Adopting more than one common source of emission definition violates this principle.

CPA Australia recommends that the regulations use the *Greenhouse Gas Protocol* as its sole standard, as we understand this to be the standard most widely used internationally. Using one standard will assist with the effective and efficient operation of the trading scheme, promote greater integrity in the information disclosed and may be an important step in assisting Australia's emission trading scheme to link in with other schemes internationally.

Free access to standards required by regulations

The Policy Paper mentions a number of standards that the regulations will impose on regulated entities, particularly in relation to the measurement, recording and assurance of emissions data, energy consumption and energy production (for example, see proposed regulations for subsection 10(3)). It is CPA Australia's understanding that any reference to external sources of standards in regulations, by reference also gives such standards the force of law. It is an important public policy issue that the community (and not just regulated entities) have free access to such standards. An example of a standard set by a private organisation that by reference carries the force of law and is freely available to the public is APES 110 *Code of Ethics for Professional Accountants* issued by the Accounting Professional and Ethical Standards Board. This Code is referenced in the standards issued by the statutory body, Auditing and Assurance Standards Board (AUASB).

CPA Australia recommends that the regulations only reference external standards that are available to the public free of charge. This may require the Government to enter into legal relationships with the owners of standards to ensure this policy outcome is achieved. The Government could draw upon the experience it had achieving free access for Australians to the support materials owned by the International Accounting Standards Board (IASB).

Incorporating the reporting requirements into the Standard Business Reporting Programme

It is noted that technology based solutions such as XBRL (extensible business reporting language) in the proposed Standard Business Reporting Programme may be a useful platform of inter-operability between financial and environmental management systems. We therefore recommend to the Department that it seek to incorporate the reporting requirements under the *NGER Act* into the Standard Business Reporting Programme.

Materiality

CPA Australia finds unhelpful the reference in section 3.1.4 to the accounting and auditing concept of materiality. We think the purpose of that concept is different from the purpose of the materiality threshold being proposed in the context of greenhouse emissions reporting. Our reasons follow. We understand the purpose of the accounting and auditing concept is to allow the exercise of professional judgement in determining what is material for a particular entity, hence, what might be material for one entity may not be for another. In contrast, we understand the purpose of the proposed materiality threshold is to achieve consistency between the reporting by regulated entities, no matter how large or small the emissions of the regulated entities are. It is our conclusion that the two purposes are not equivalent. Therefore, CPA Australia strongly suggests that the regulations not contain any reference to the accounting and auditing concept, including AASB 1031.

Reporting by registered entities

It is CPA Australia's view that all registered entities, no matter if they voluntarily register or their registration is mandatory or that they are above or below the thresholds, should report their emissions data, energy consumption and production and have such reporting independently assured. However, we recognise that there may be unusual situations where reporting and having such data assured is unnecessary. Accordingly, we recommend that the GEDO be given the authority to grant relief to a registered entity that applies for such relief, from the reporting and assurance requirements of the *NGER Act*. Further, the GEDO should publish a policy paper addressing how they would exercise such authority.

A similar relief provision exists in section 342 of the *Corporations Act 2001*. This section gives ASIC authority to grant proprietary companies relief from the audit requirements of the *Corporations Act 2001*. ASIC provides guidance on how they exercise this authority (on a case by case situation) in Regulatory Guide 115, and this may be useful reference point for the GEDO.

Record keeping

We are of the view that the records required to be kept should constitute sufficient and appropriate evidence to support the conclusion expressed in the assurance report. This is so as to ensure consistency with the requirements of the prescribed AUASB assurance standard.

Public Disclosure of contextual information

CPA Australia does have concerns over the public disclosure of contextual information which has not been subject to independent assurance. However, the proposed requirement for the prominent display of a disclaimer on such public disclosure stating that fact should be sufficient to address our concerns. Given these concerns, we would like to be involved in the proposed public disclosure focus group.

The next step

CPA Australia recommends that the next step for the Department in the development of regulations for the *NGER Act* is to publicly expose the draft regulations. This would allow stakeholders to gain a clear understanding of how the regulations will impact them and allow them to make further informed contributions to the design and development of the regulations.

If you have any questions regarding the above, please do not hesitate to contact Mr Gavan Ord, CPA Australia's Business Policy Adviser on 03 9606 9695.

Yours sincerely



PAUL DRUM
Director- Policy and Research
CPA Australia