



ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 150

Disclosing financial information other than in accordance with accounting standards

March 2011

About this paper

This consultation paper is for directors, professional advisers and other interested parties.

It seeks feedback on our proposed guidance for the use of financial information in financial reports and other corporate documents, such as transaction documents and market announcements, where that financial information is prepared other than in accordance with accounting standards.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This paper was issued on 24 March 2011 and is based on the Corporations Act as at 24 March 2011.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

Contents

The consultation process	4
A Overview	5
Disclosing financial information	5
Our proposed guidance	5
B Our proposed guidance	7
What is non-conforming financial information?.....	7
Financial reports	8
Documents related to the financial report.....	8
Transaction documents	9
C Regulatory and financial impact	12
List of proposals and questions	13
Attachment: Draft regulatory guide.....	15

The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on disclosing financial information prepared other than in accordance with the accounting standards. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section C, 'Regulatory and financial impact'.

Making a submission

We will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any financial information) as confidential.

Comments should be sent by 12 May 2011 to:

Jodie Wise
 Executive Assistant, Accountants and Auditors
 Australian Securities and Investments Commission
 GPO Box 9827
 Sydney NSW 2000001
 facsimile: 02 9911 2403
 email: jodie.wise@asic.gov.au

What will happen next?

Stage 1	24 March 2011	ASIC consultation paper released with draft regulatory guide
Stage 2	12 May 2011	Comments due on the consultation paper
Stage 3	By 30 June 2011	Regulatory guide released

A Overview

Key points

Investors and other users of financial information may be misled by information that is prepared and presented other than in accordance with accounting standards.

The draft regulatory guide attached to this consultation paper sets out our proposed definition for this type of financial information ('non-conforming financial information') and our proposed guidelines for disclosing this information in financial reports and other documents.

We believe these guidelines will reduce the likelihood of this financial information being misleading.

Disclosing financial information

- 1 Financial information prepared and presented other than in accordance with accounting standards as defined in s9 of the *Corporations Act 2001* (Corporations Act) is being used increasingly in financial reports, documents accompanying financial reports, market announcements and transaction documents.
- 2 Investors and other users of this information risk being misled because they are accustomed to financial information being prepared in accordance with the accounting standards and may not understand that the information disclosed does not conform to these standards.

Our proposed guidance

- 3 We propose to define 'non-conforming financial information' as:

financial information that is required to be prepared and presented in accordance with the accounting standards when it appears in a financial report prepared under the requirements of the Corporations Act, whether that information appears in the financial report or another document, but is presented on a basis that is not in accordance with all relevant accounting standards.
- 4 We consider there are three main types of document in which non-conforming financial information is commonly disclosed:
 - (a) financial reports;

- (b) documents related to the financial report (e.g. documents accompanying financial reports, market announcements, presentations to investors and briefings to analysts); and
- (c) transaction documents, such as prospectuses, scheme documents and takeover documents.

5 The attached draft regulatory guide sets out:

- (a) our proposed guidance on when it may or may not be appropriate to disclose non-conforming financial information; and
- (b) our proposed guidelines on presenting that financial information to minimise the risk of the information being misleading.

B Our proposed guidance

Key points

We propose to define ‘non-conforming financial information’ and additional related terms: see Proposals B1–B2.

We propose to give guidance on when it may or may not be appropriate to disclose that information in:

- financial reports (see Proposal B3);
- documents related to the financial report (see Proposal B4); or
- transaction documents (see Proposals B5–B7).

We also propose to give guidelines on presenting non-conforming financial information to minimise the risk of the information being misleading.

What is non-conforming financial information?

Proposal

- B1** We propose to define ‘non-conforming financial information’ as:
- financial information that is required to be prepared and presented in accordance with the accounting standards when it appears in a financial report prepared under the requirements of the Corporations Act, whether that information appears in the financial report or another document, but is presented on a basis that is not in accordance with all relevant accounting standards.
- B2** We also propose to define ‘statutory financial reporting requirements’ and two types of non-conforming information—being ‘pro forma financial information’ and ‘alternative profit information’: see the proposed definitions in the attached draft regulatory guide at RG 000.13–RG 000.20.

Your feedback

- B2Q1** Do you agree with the proposed definitions? If not, what alternative definitions would you propose and why?

Rationale

- 6 We have defined non-conforming financial information broadly, with the intention to capture any financial information that is not prepared in accordance with the accounting standards.
- 7 Users of financial reports are accustomed to receiving financial information prepared in accordance with these standards. They may be misled where

financial information prepared other than in accordance with these standards is not presented appropriately.

- 8 Pro forma financial information in transaction documents may be necessary to explain the impact of proposed transactions. However, any financial information not prepared in accordance with the accounting standards or other financial reporting requirements of the Corporations Act should be clearly identified as not conforming to the accounting standards.

Financial reports

- 9 We consider that non-conforming financial information, such as alternative profit measures, should only be included in a financial report in exceptional circumstances where disclosure in the notes to the financial statements is necessary to give a true and fair view: see the attached draft regulatory guide at RG 000.21–RG 00.37.
- 10 We consider that the inclusion of alternative financial statements as additional columns in a financial report is not permitted by the Corporations Act. Alternative profits cannot be presented as additional line items or subtotals on the face of the financial statements.
- 11 The underlying drivers of the business should be explained by disclosing components of results and/or through the review of operations required by s299 and 299A of the Corporations Act.
- 12 We would only give relief under s340 or 341 of the Corporations Act to allow the inclusion of non-conforming financial information in financial reports in exceptional circumstances.

Documents related to the financial report

Proposal

- B3 We propose that, where non-conforming financial information is disclosed in documents accompanying the financial report (e.g. the directors' report), market announcements, presentations to investors and briefings to analysts, guidelines should be applied to reduce the risk of the information being misleading. These include (see the attached draft regulatory guide at RG 000.56):
- (a) there should be clear explanations about how the information is calculated and why it is necessary to include such information;
 - (b) the information should not be presented with greater prominence than the statutory information;

- (c) there should be reconciliations between the non-conforming financial information and the statutory information; and
- (d) the non-conforming information should be consistently presented from period to period.

Your feedback

B3Q1 Do you agree that we should provide guidelines? If not, why not?

B3Q2 Do you consider that the proposed guidelines are appropriate? If not, please suggest alternative guidelines, including your reasons.

B3Q3 Do you consider that the guidelines are practicable? If not, please outline any aspects of the proposed guidelines that you consider impracticable, including your reasons.

Rationale

- 13 We consider that ASIC should provide guidelines for presenting non-conforming financial information when such information is disclosed, to help reduce the possibility of users being misled.
- 14 We consider that the proposed guidelines in the draft regulatory guide strike an appropriate balance between allowing some flexibility in presentation and reducing the likelihood of users being misled.

Transaction documents

Proposal

- B4** We propose that it is often necessary to include non-conforming financial information in the form of pro forma financial information in transaction documents: see the attached draft regulatory guide at RG 000.69.

Your feedback

B4Q1 Do you agree that it is often necessary to include pro forma financial information in transaction documents? If not, please state why.

Rationale

- 15 Pro forma information in transaction documents is intended to show users the effects of proposed transactions. A common example is when the financial effects of a business combination are shown as if it had occurred at the last balance date.

- 16 Such information can be very useful, particularly in complex transactions, and may be necessary at times to fulfil disclosure obligations under the Corporations Act.

Proposal

- B5** We propose that it is reasonable for investors and other users of transaction documents to expect financial information in these documents to be prepared in accordance with the accounting standards to the extent possible subject to assumptions necessary to presenting the pro forma financial information.

Your feedback

- B5Q1 Do you agree that the accounting standards should be followed in presenting financial information in transaction documents? If not, please detail when and/or which particular standards should be followed.
- B5Q2 Do you agree with our approach in situations where underlying financial records are not available? If not, what alternative approach would you suggest?

Rationale

- 17 We consider that users of transaction documents can reasonably expect financial information to be prepared and presented in accordance with the accounting standards because:
- (a) past and/or future financial reports may be required to comply with these standards;
 - (b) users are accustomed to financial information being prepared this way; and
 - (c) it enables comparisons with other entities reporting on that basis.
- 18 We acknowledge that in the case of a hostile takeover situation, it may not be possible to prepare pro forma financial information when access to underlying records is not available.

Proposal

- B6** We propose that certain guidelines should be followed when including pro forma financial information in transaction documents to minimise the risk of the information being misleading: see the attached draft regulatory guide at RG 000.77–RG 000.78.

Your feedback

- B6Q1 Do you agree that we should provide guidelines? If not, please state why.

B6Q2 Do you consider that the proposed guidelines are appropriate? If not, please suggest alternative guidelines, including your reasons.

B6Q3 Are the two reconciliation methods we have proposed appropriate? If not, please suggest alternative methods, including your reasons.

Rationale

- 19 We consider that ASIC should provide guidelines for those occasions when pro forma financial information is provided. The proposed guidelines are aimed at ensuring that there are clear explanations as to how the information is calculated and that investors are unlikely to be misled.
- 20 The guidelines also outline two options for the form of reconciliation that should be disclosed showing the amount and nature of all material adjustments to the statutory financial information to derive the pro forma financial information. A line-by-line reconciliation is our preferred option but a reconciliation of key items such as profit after tax and net assets may be appropriate where there are a limited number of reconciling items and each item is separately disclosed.

C Regulatory and financial impact

- 21 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us the proposals will strike an appropriate balance between:
- (a) permitting non-conforming financial information when it could be of use to investors; and
 - (b) reducing the likelihood that users could be misled.
- 22 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:
- (a) considering all feasible options including examining the likely impacts of the range of alternative options which could meet our policy objectives;
 - (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
 - (c) if our proposed option has more than minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).
- 23 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.
- 24 To ensure that we are in a position to properly complete any required RIS, we ask you to provide us with as much information as you can about our proposals or any alternative approaches, including:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.

See 'The consultation process' on page 4.

List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to define 'non-conforming financial information' as: financial information that is required to be prepared and presented in accordance with the accounting standards when it appears in a financial report prepared under the requirements of the Corporations Act, whether that information appears in the financial report or another document, but is presented on a basis that is not in accordance with all relevant accounting standards.</p> <p>B2 We also propose to define 'statutory financial reporting requirements' and two types of non-conforming information being 'pro forma financial information' and 'alternative profit information': see the proposed definitions in the attached draft regulatory guide at RG 000.13–RG 000.20.</p>	<p>B2Q1 Do you agree with the proposed definitions? If not, what alternative definitions would you propose and why?</p>
<p>B3 We propose that, where non-conforming financial information is disclosed in documents accompanying the financial report (e.g. the directors' report), market announcements, presentations to investors and briefings to analysts, guidelines should be applied to reduce the risk of the information being misleading. These include (see the attached draft regulatory guide at RG 000.56):</p> <ul style="list-style-type: none"> (a) there should be clear explanations about how the information is calculated and why it is necessary to include such information; (b) the information should not be presented with greater prominence than the statutory information; (c) there should be reconciliations between the non-conforming financial information and the statutory information; and (d) the non-conforming information should be consistently presented from period to period. 	<p>B3Q1 Do you agree that we should provide guidelines? If not, why not?</p> <p>B3Q2 Do you consider that the proposed guidelines are appropriate? If not, please suggest alternative guidelines, including your reasons.</p> <p>B3Q3 Do you consider that the guidelines are practicable? If not, please outline any aspects of the proposed guidelines that you consider impracticable, including your reasons.</p>
<p>B4 We propose that it is often necessary to include non-conforming financial information in the form of pro forma financial information in transaction documents: see the attached draft regulatory guide at RG 000.69.</p>	<p>B4Q1 Do you agree that it is often necessary to include pro forma financial information in transaction documents? If not, please state why.</p>

Proposal	Your feedback
<p>B5 We propose that it is reasonable for investors and other users of transaction documents to expect financial information in these documents to be prepared in accordance with the accounting standards to the extent possible subject to assumptions necessary to presenting the pro forma financial information.</p>	<p>B5Q1 Do you agree that the accounting standards should be followed in presenting financial information in transaction documents? If not, please detail when and/or which particular standards should be followed.</p> <p>B5Q2 Do you agree with our approach in situations where underlying financial records are not available? If not, what alternative approach would you suggest?</p>
<p>B6 We propose that certain guidelines should be followed when including pro forma financial information in transaction documents to minimise the risk of the information being misleading: see the attached draft regulatory guide at RG 000.77–RG 000.78.</p>	<p>B6Q1 Do you agree that we should provide guidelines? If not, please state why.</p> <p>B6Q2 Do you consider that the proposed guidelines are appropriate? If not, please suggest alternative guidelines, including your reasons.</p> <p>B6Q3 Are the two reconciliation methods we have proposed appropriate? If not, please suggest alternative methods, including your reasons.</p>

Attachment: Draft regulatory guide



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 000

Disclosing financial information other than in accordance with accounting standards

March 2011

About this guide

This guide is for preparers of financial information including directors and accountants. It sets out our guidance on the use of financial information in financial reports and other corporate documents, such as transaction documents and market announcements, where that information is not presented in accordance with accounting standards.

The purpose of our guidance is to promote full and clear disclosure for investors and other users of financial information and minimise the possibility of those users being misled by such information.

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About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This draft guide was issued on 24 March 2011 and is based on legislation and regulations as at 24 March 2011.

Disclaimer

This draft guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

DRAFT

Contents

A	Overview	18
	Disclosing financial information	18
	What is non-conforming financial information?.....	19
	Financial reports	19
	Documents related to the financial report.....	20
	Transaction documents	20
B	What is non-conforming financial information?	21
	Definition of non-conforming financial information	21
	Related terms	22
C	Financial reports	23
	Purpose of a financial report.....	23
	Alternative profits	23
	Non-conforming financial information	24
	Financial statements.....	25
	Additional line items and subtotals	25
	True and fair view	25
	Operating and financial review	27
	Other GAAPs	28
	Concise financial reports	28
	Examples	29
	Relief.....	29
D	Documents related to the financial report	31
	Use of non-conforming financial information	31
	Misleading information.....	31
	Guidelines for presenting information.....	32
	Unrealised gains and losses.....	33
	Excluding costs	33
	Use of ratios.....	34
	Other examples	35
E	Transaction documents	36
	Purpose of non-conforming disclosures	36
	Compliance with accounting standards	37
	Guidelines for presenting information.....	39
	Key terms	42
	Related information	43

DRAFT

A Overview

Key points

Financial information prepared and presented other than in accordance with accounting standards (non-conforming financial information) can be useful for investors and other users of this information in certain circumstances. However, such information also has the potential to be misleading.

This guide sets out:

- our definition of non-conforming financial information and related terms (see Section B);
- our guidance on when it is and is not appropriate to use non-conforming financial information in financial reports (see Section C), documents related to the financial report (see Section D) and transaction documents (see Section E); and
- our guidelines for directors and accountants on presenting non-conforming financial information.

Disclosing financial information

- RG 000.1 Financial information prepared and presented other than in accordance with accounting standards as defined in s9 of the *Corporations Act 2001* (Corporations Act) (described in this guide as ‘non-conforming financial information’) is being used increasingly in financial reports and other documents, such as fundraising documents, product disclosure statements, takeover documents, market announcements, presentations to investors and briefings to analysts.

Note: In this guide, ‘financial report’ means the documents referred to in s295 and 303 of the Corporations Act, being financial statements, notes to the financial statements and the directors’ declaration about the statements and notes.

- RG 000.2 In this guide, we give guidance on when financial information prepared other than in accordance with the accounting standards can and cannot be used and what additional disclosure should be made so that the information is not misleading. The purpose of our guidance is to promote full and clear disclosure for investors and other users of that financial information.
- RG 000.3 There are limitations on the use non-conforming financial information in financial reports under Ch 2M of the *Corporations Act 2001* (Corporations Act). The use of non-conforming financial information in other documents is

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governed by general statutory obligations, such as requirements that the information not be misleading.

- RG 000.4 Our guidelines do not replace the law for those other documents. Disclosure in documents other than financial reports that does not follow our guidelines will not necessarily breach the law. However, following them will reduce the potential that those other documents breach the law.

What is non-conforming financial information?

- RG 000.5 We define ‘non-conforming financial information’ as:
- financial information that is required to be prepared and presented in accordance with the accounting standards when it appears in a financial report prepared under the requirements of the Corporations Act, whether that information appears in the financial report or another document, but is presented on a basis that is not in accordance with all relevant accounting standards.
- RG 000.6 We consider there are three main types of document in which non-conforming financial information is commonly disclosed:
- (a) financial reports;
 - (b) documents related to the financial report (e.g. documents accompanying financial reports, market announcements, presentations to investors and briefings to analysts); and
 - (c) transaction documents, such as prospectuses, scheme documents and takeover documents.

Financial reports

- RG 000.7 Financial information prepared other than in accordance with the accounting standards must not be included in financial statements, and may only be included in the notes to the financial statements in exceptional circumstances where disclosure in the notes is necessary to give a true and fair view of the financial position and performance of the entity.
- RG 000.8 Profit figures prepared other than in accordance with the accounting standards may not be included as line items or subtotals in the income statement, nor presented in additional columns of financial statements.

DRAFT

Documents related to the financial report

- RG 000.9 It may be necessary or appropriate to include non-conforming financial information in documents accompanying the financial report (e.g. the directors' report), market announcements, presentations to investors and briefings to analysts.
- RG 000.10 Such information can provide meaningful insights into the financial condition or performance of a business.

Transaction documents

- RG 000.11 Non-conforming financial information presented in the form of pro forma financial information may be useful or necessary in transaction documents to fulfil disclosure obligations under the Corporations Act.

Note: For the definition of 'pro forma financial information', see RG 000.19.

- RG 000.12 Where non-conforming financial information is included, it should not be presented in a misleading manner. We have provided guidelines for presenting non-conforming financial information when such information is disclosed, to help reduce the possibility of users being misled.

B What is non-conforming financial information?

Key points

Non-conforming financial information is any financial information, financial figure, measure or ratio that is prepared on a basis that is not in accordance with all relevant accounting standards.

Pro-forma financial information is non-conforming financial information that is intended to show the effects of proposed transactions and is often used in transaction documents.

Alternative profit information is a type of non-conforming financial information that often excludes particular expenses, such as impairment losses.

Definition of non-conforming financial information

- RG 000.13 In this guide, ‘*non-conforming financial information*’ is any financial information that is required to be prepared and presented in accordance with the accounting standards when it appears in a financial report produced under the requirements of the Corporations Act, whether that information appears in the financial report or another document, but is presented on a basis that is not in accordance with all relevant accounting standards.
- RG 000.14 Non-conforming financial information may exclude certain transactions, or present transactions or balances on a different recognition and measurement basis from that required or permitted by accounting standards.
- RG 000.15 In this guide, a reference to ‘financial report’ is a reference to the documents referred to in s295 and 303 of the Corporations Act, being the financial statements, the notes to the financial statements and the directors’ declaration about the statements and notes.
- RG 000.16 Non-conforming financial information may be presented in a form that purports to be, or appears to be similar to:
- (a) a statement of financial position;
 - (b) a statement of comprehensive income;
 - (c) a statement of changes in equity; or
 - (d) a statement of cash flows,
- RG 000.17 but which has not been prepared in accordance with statutory financial reporting requirements.

Related terms

- RG 000.18 We use the term ‘*statutory financial reporting requirements*’ to describe the accounting standards and other financial reporting requirements of Ch 2M of the Corporations Act.
- RG 000.19 ‘*Pro forma financial information*’ is non-conforming financial information that is intended to show the effects of proposed transactions and is often used in transaction documents, such as prospectuses, scheme of arrangement documents and takeover documents
- RG 000.20 ‘*Alternative profit information*’ is a common type of non-conforming financial information. It often excludes particular expenses, such as impairment losses. Alternative profit information is often described as ‘underlying profit’ or ‘cash basis profit’.

C Financial reports

Key points

Statutory financial reports provide historical financial information that is prepared in accordance with the accounting standards and other financial reporting requirements of the Corporations Act. The objective of these requirements is to ensure consistent and comparable information over time and between entities that is not misleading to users.

Non-conforming financial information must not be presented as additional columns in the financial statements. Alternative profits may not be presented as line items or subtotals in the income statement.

In exceptional cases, compliance with the accounting standards will not give a true and fair view of the financial position and performance of an entity, as required by the Corporations Act. In those rare cases, additional information to give a true and fair view will be required to be disclosed in the notes, which might include non-conforming financial information in some cases.

We may provide relief to allow inclusion of pro forma or other non-conforming financial information in financial reports or directors' declarations, but we are likely to do so only in exceptional circumstances.

Purpose of a financial report

- RG 000.21 Many companies, registered schemes and disclosing entities must prepare financial reports in accordance with the accounting standards and other financial reporting requirements of the Corporations Act.
- RG 000.22 The accounting standards are intended to ensure consistent and comparable reporting of historical financial performance, position and cash flows over time and between entities to assist investors and others to make confident and informed decisions.

Alternative profits

- RG 000.23 It has become increasingly common for entities to present alternative profit information to the market, such as 'underlying profit' or 'cash basis profit'. However, this information is presented on a different basis for different entities and this can reduce the comparability of the information between entities.

DRAFT

- RG 000.24 Because different users require different information, we believe that it is important to provide information required by the accounting standards on the components of the conforming profit of an entity and its other comprehensive income within the financial report to enable users of the financial report to better understand the performance of a company. Users can then derive the performance measure that they consider appropriate for their purposes. In addition, the operating and financial review (discussed later in this guide) can be used to present meaningful information on the underlying drivers of the business.
- RG 000.25 Alternative profit information presented to the market often excludes particular expenses, such as impairment losses, and has sometimes been used with an objective of removing ‘bad news’ rather than providing meaningful information to the market.

Non-conforming financial information

- RG 000.26 Sections 295(1)–(4) and 303(1)–(4) of the Corporations Act prescribe the information that comprises the annual and half-year financial reports under Ch 2M of the Corporations Act. This information is:
- (a) the financial statements required by accounting standards;
 - (b) the notes to the financial statements required by the accounting standards and the regulations, and any other information necessary to give a true and fair view of the financial position and performance of the entity and/or consolidated entity; and
 - (c) the directors’ declaration, being a declaration by the directors whether, in the director’s opinion, there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable, whether the financial statements and notes are in accordance with the Corporations Act, and for some entities, that the declarations required by s295A have been given.
- RG 000.27 Because these provisions provide an exhaustive list of what is required and permitted to be included in the financial report, it follows from these requirements that non-conforming financial information may not be included in financial statements, and may only be included in the notes to the financial statements in those exceptional circumstances where inclusion of that information is necessary to give a true and fair view of the financial position and performance of an entity.

Financial statements

- RG 000.28 Non-conforming financial information must not be included as additional columns of financial statements. In particular, s295(2) and 303(2) of the Corporations Act specify that the financial statements that must be included in an annual or half-year financial report are those required by the accounting standards. In Australia, these standards are issued by the Australian Accounting Standards Board (AASB). Accounting standards AASB 101 *Presentation of Financial Statements* (AASB 101) and AASB 134 *Interim Financial Reporting* for half-year reports set out the specific financial statements to be included.
- RG 000.29 The financial statements must comply with the accounting standards pursuant to s296 and 304 of the Corporations Act. By its nature, non-conforming financial information does not comply with the accounting standards, so cannot be included in any form in financial statements.

Additional line items and subtotals

- RG 000.30 Alternative profit information in the income statement which, for example, excludes certain income items is not in accordance with AASB 101.
- RG 000.31 AASB 101 both permits and requires additional line items and subtotals to be disclosed in the income statement to provide users with a better understanding of the components of the statutory profits and performance of the entity. In our view, alternative profit information is not subtotal information permitted by AASB 101 because it is not necessary to an understanding of the performance of the entity. Additional line items and subtotals included as permitted by AASB 101 should not be given more prominence than the statutory profit number or described as an 'alternative' profit number.
- RG 000.32 AASB 101 specifically prohibits the disclosure of extraordinary items. Presentations that are intended to achieve that result but without using the term 'extraordinary items' are contrary to this prohibition.

True and fair view

- RG 000.33 The Corporations Act contemplates that there could be situations where compliance with the accounting standards does not result in a true and fair view of the financial position and performance of an entity. In these circumstances, additional information must be disclosed in the notes to the financial statements to give a true and fair view: s295(3)(c) and 303(3)(c).

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- RG 000.34 The most common disclosure required to give a true and fair view is additional information to explain the facts or circumstances relating to a transaction or balance, such as details of the terms and conditions attaching to a financial instrument issued by an entity that may be relevant to its classification as debt or equity. It is only in exceptional circumstances that disclosure of financial information prepared on a different basis to that required by accounting standards is necessary to give a true and fair view of the financial position and performance of an entity.
- RG 000.35 We consider that information prepared in accordance with accounting standards will give a true and fair view of the financial position and financial performance of an entity in all but exceptional circumstances. Our view is based on the following reasons:
- (a) Information prepared in accordance with accounting standards is presented on a consistent and comparable basis across entities and from period to period and is in accordance with a recognised and public basis of accounting that can be understood by users.
 - (b) The accounting standards require sufficient disclosure of the components of profit and other comprehensive income, revenue, expenses, assets, liabilities and equity, as well as accounting policies and other disclosures to enable users to understand how the figures have been derived and what they comprise.
 - (c) The financial report provides an historical record of the past financial performance of an entity for a period and its financial position at the end of that period, whereas non-conforming financial information does not always present the actual historical financial performance or position of the entity for the period (e.g. when the non-conforming financial information excludes certain revenues or expenses, or includes adjustments for transactions that had not occurred at the time as if they had occurred).
 - (d) Compliance with accounting standards in itself should give a true and fair view of the financial position and performance of an entity, given the consideration and approval of these standards by the International Accounting Standards Board (IASB) and the Australian Accounting Standards Board (AASB), and the extent of consultation and due process before each standard is made. Over time, accounting standards also help to define what is true and fair.
 - (e) Specific accounting standards already prescribe the methodology and disclosures for particular major transactions and balances—for example, acquisition of assets or entities and consolidation of the results of controlled entities acquired or divested during the reporting period: see AASB 116 *Property, Plant and Equipment*, AASB 3 *Business Combinations*, AASB 127 *Consolidated and Separate Financial*

Statements and AASB 5 Non-current Assets Held for Sale and Discontinued Operations.

- RG 000.36 In the exceptional circumstances where non-conforming financial information is necessary to give a true and fair view of the financial position and performance of an entity, the directors' report must set out the directors' reasons for forming the opinion that the inclusion of the information was necessary to give a true and fair view as required by s297 or 305 of the Corporations Act: see s298(1A) and 306(2) [second occurrence]. The auditor must also form an opinion on whether the additional information was necessary to give a true and fair view as required by s297 or 305: see s307(aa).
- RG 000.37 Any non-conforming financial information necessary to give a true and fair view of the financial position and financial performance should be presented in accordance with the principles in this guide. In particular, it should not be presented in a manner that may mislead or deceive. For example, that information should not be given undue prominence and it should be clear that it has not been prepared in accordance with the accounting standards.

Operating and financial review

- RG 000.38 Section 299A of the Corporations Act requires a company or disclosing entity that is a listed public company to include an 'operating and financial review' (OFR) in the directors' report that accompanies their annual financial report. The OFR must contain information that members of the entity would reasonably require to make an informed assessment of the entity's operations and financial position, as well as business strategies and the entity's prospects for future financial years (unless disclosure would cause unreasonable prejudice).
- RG 000.39 The OFR enables the directors to explain to users of financial reports the performance and financial position of the entity in a meaningful way. The OFR should provide an understanding of the underlying business of an entity and the drivers of its profit. An effective OFR can reduce the need to present alternative profit information.
- RG 000.40 The OFR is the appropriate place for a company to explain any unusual aspects of its performance for the year.
- RG 000.41 If it is considered necessary to include non-conforming financial information in the OFR, the directors' report or another document in the annual report, the guidelines detailed in Section D of this guide should be followed to assist in reducing the possibility of non-conforming financial information being misleading.

- RG 000.42 Section 299 of the Corporations Act also requires the directors' report for all entities for a financial year to contain a review of the operations during the year and the results of those operations.

Other GAAPs

- RG 000.43 A reconciliation of key line items in the financial statements (e.g. profit and net assets) to figures prepared under the generally accepted accounting principles (GAAP) of another jurisdiction in which the entity is listed can be presented as a part of the annual report, but should not be included in the financial report unless it is necessary to give a true and fair view of the financial position and performance. The company may choose to have this additional information audited.
- RG 000.44 The financial information under the GAAP of the other jurisdiction should not be presented in a misleading manner. In particular, it should not be given undue prominence compared to the information prepared in accordance with accounting standards and other financial reporting requirements of the Corporations Act, and the basis used should be clearly described.

Concise financial reports

- RG 000.45 Our guidance also applies to non-conforming financial information in concise financial reports prepared in accordance with s314 of the Corporations Act.
- RG 000.46 Under s314(1), a company, registered scheme or disclosing entity may send a concise report to members instead of a full financial report and auditor's report. The financial statements and specific disclosures required in a concise financial report must be derived from the financial report of the entity, and any other information included must be consistent with the financial report of the entity: see AASB 1039 *Concise Financial Reports*.
- RG 000.47 Although AASB 1039 requires some additional disclosures to those required in a full financial report, our view is that these additional disclosure requirements do not permit inclusion of non-conforming financial information.

Examples

RG 000.48 The following are examples of disclosures of non-conforming financial information in financial reports. The examples are not exhaustive and are provided to help preparers of financial information better understand our approach in this guide.

Table 1: Examples of non-conforming financial information

<p>Non-conforming financial information permitted in financial statements</p>	<ul style="list-style-type: none"> • AASB 8 <i>Operating Segments</i> (AASB 8) requires disclosure of profit or loss for segments based on the measure reported internally to management, which may be different to the profit or loss determined in accordance with other accounting standards. It is therefore acceptable to refer to such results, but they should not be further adjusted to provide an alternative profit result. • AASB 133 <i>Earnings per Share</i> permits disclosure of amounts per share using a reported component of the statement of comprehensive income other than the one required by that standard, or a component of the statement of comprehensive income that is not reported as a line item in the statement of comprehensive income.
<p>Non-conforming financial information in financial statements that is likely to contravene the Corporations Act</p>	<ul style="list-style-type: none"> • Including non-conforming financial information as an additional column or columns in the financial statements • Including an additional table at the foot of the income statement, detailing adjustments to arrive at a non-conforming profit number • A note to the financial statements containing another income statement showing an alternative profit number, unless that number is required to give a true and fair view of the financial position and performance of the entity (as noted above, we consider this will only be required in exceptional circumstances) • Measuring and highlighting an item on the income statement on a basis not permitted by the accounting standards, even if the required value is also shown • Restating the financial statements as if there had been no change in the exchange rate since the previous period (i.e. 'constant currency adjustments').
<p>Other non-conforming financial information that may be included in a financial report</p>	<ul style="list-style-type: none"> • Information on compliance with regulatory financial condition requirements • Details of a breach of a lending covenant where the covenant is determined with reference to a non-conforming financial ratio • An explanation of the basis for determining director and executive remuneration where the basis is on measures other than statutory profit

Relief

RG 000.49 We may exercise our discretionary relief powers under s340 and 341 to grant relief from s295 and 303 to allow an entity to include non-conforming financial information in financial reports and directors' declarations in exceptional circumstances. Relief has been granted only in exceptional circumstances for the following reasons:

- (a) Subject to non-conforming financial information not being misleading and following the guidance in this regulatory guide, non-conforming financial information can be included in documents accompanying the

financial report, market announcements, presentations to investors and briefings to analysts (see Section D) which would usually make it unnecessary to include this information in the financial report or directors' declarations.

- (b) Non-conforming financial information may be included in the notes to the financial statements where that information is necessary to give a true and fair view of the financial position and performance of an entity (see s295(3)(c) and 303(3)(c)).

Note: For our policy on applications for relief from the requirements of Ch 2M of the Corporations Act, see Regulatory Guide 43 *Financial reports and audit relief* (RG 43).

RG 000.50 We have granted class order relief from statutory financial reporting requirements in the following specific circumstances:

- (a) to relieve certain wholly owned subsidiaries from the requirement to prepare and lodge audited financial statements under Ch 2M of the Corporations Act, where they enter into deeds of cross guarantee with their parent entity and meet certain other conditions. As a condition of relief, the parent must present consolidated financial statements and we have given relief to allow the parent to do so (see Class Order [CO 98/1418] *Wholly-owned entities*);
- (b) to allow issuers of stapled securities to include the financial statements of each stapled entity in adjacent columns in one financial report (see Class Order [CO05/0642] *Combining financial reports of stapled security issuers*);
- (c) to allow the presentation of a pro forma statement of financial position in the notes to the financial statements to explain the financial effect of material acquisitions and disposals of entities and businesses after balance date (see Class Order [CO 05/0644] *Disclosing post balance date acquisitions and disposals*); and
- (d) to allow registered schemes with a common responsible entity (or related responsible entities) to include their financial statements in adjacent columns in a single financial report (see Class Order [CO 06/0441] *Including different registered scheme financial reports in a single document*).

DRAFT

D Documents related to the financial report

Key points

Users of financial reports may ask for information in addition to the financial report to better understand aspects of the performance of an entity.

There are cases where non-conforming financial information in documents accompanying the financial report, market announcements, presentations to investors and briefings to analysts is necessary or useful to investors and other users of the information.

This information must not be misleading. In this regard, important considerations include that the non-conforming financial information should:

- not be given undue prominence compared to statutory financial information, in particular conforming profit;
- be explained and reconciled to the statutory financial information;
- be calculated consistently from period to period; and
- be unbiased and not used to remove 'bad news'.

Use of non-conforming financial information

RG 000.51 There may be demands from users of financial reports for information to better understand aspects of the performance of an entity, including information on the drivers of the business and external influences, and more information on the items comprising the reported result. It is possible for this information to be included in documents accompanying the financial report, (e.g. the directors' report), market announcements, presentations to investors and briefings to analysts.

RG 000.52 It has become increasingly common for alternative profit information or other non-conforming financial information to be included in documents that accompany the financial report, market announcements, presentations to investors and briefings to analysts.

Misleading information

RG 000.53 Disclosure of non-conforming financial information must not be presented in a manner that is misleading. There are a number of sections of the Corporations Act that deal with misleading information including:

(a) s1041E (false or misleading statements);

- (b) s1041H (misleading or deceptive conduct);
- (c) s670A (misstatements in, or omissions from takeover and compulsory acquisition and buy-out documents);
- (d) s728 (misleading or deceptive statements in prospectuses); and
- (e) s1020E and Subdiv A of Pt 7.9 (misleading PDS, supplementary PDS or information required by s1012G(3)(a)).

RG 000.54 In some cases, s1308 (false or misleading statements) and 1309 (false information) may also apply to pro forma financial information in transaction documents.

RG 000.55 Accounting standards are intended to ensure consistent and comparable reporting of historical financial information over time and between entities. Users of financial information expect that information be presented in accordance with the accounting standards. There is a risk that non-conforming financial information will be misleading unless it is appropriately presented and explained.

Guidelines for presenting information

- RG 000.56 The following guidelines should help to reduce the possibility of non-conforming financial information being misleading:
- (a) Non-conforming financial information should not be presented with greater prominence, emphasis or authority than the corresponding financial information prepared in accordance with accounting standards.
 - (b) A clear explanation should be provided as to how the non-conforming financial information is calculated and why it is necessary to include that information.
 - (c) A reconciliation between the non-conforming and statutory numbers should be provided, separately itemising and explaining each significant adjustment.
 - (d) A consistent approach should be adopted from period to period. If there has been a change in approach from the previous period, an explanation as to the nature of the change, the reasons for the change, and the financial impact of the change should be provided.
 - (e) For each adjustment made to statutory financial information, corresponding items should be adjusted in any comparative information.
 - (f) The non-conforming financial information should be unbiased and not used to remove impairment losses or particular expenses, or to avoid presenting 'bad news' to the market.
 - (g) Adjustments made to statutory profit should not discriminate between positive and negative adjustments.

DRAFT

- (h) Non-conforming information should be clearly identified as being non-conforming.
- (i) A clear statement should be made as to whether or not the non-conforming information has been audited or reviewed.

RG 000.57 AASB 8 requires disclosure of profit or loss for segments based on the measure reported internally to management, which may be different to the statutory profit. If segment reporting profit or loss is required to be disclosed it would be very difficult to justify the presentation of alternative profit information which differs from the segment reporting disclosures in the financial report.

Unrealised gains and losses

RG 000.58 Some entities present alternative profit information that excludes unrealised gains and losses because financial results reported in accordance with accounting standards can exhibit significant volatility from year to year. Alternative profit information is said to remove some or all of that volatility. Some entities also adjust for unrealised fair value movements in asset values. However, it is our view that fair value movements merely reflect the volatility that exists in underlying businesses. Fair value accounting also avoids any distortion or manipulation of results by the selective realisation of assets.

RG 000.59 Where alternative profit information that excludes unrealised gains and losses is presented, the guidelines in RG 000.56 should be applied. In particular, adjustments should be made consistently across periods irrespective of whether they are gains or losses and irrespective of the performance against competitors and the market.

RG 000.60 Further, unrealised gains and losses in matching assets and liabilities should be adjusted, and adjustments to realised gains and losses for similar assets and liabilities may also be necessary to ensure users of the information are not misled. Adjustments to remove interest, dividends and rent (which are other components of the total income or expense on assets and liabilities) may also need to be made, for the same reason.

Excluding costs

RG 000.61 Alternative profit information that excludes particular costs can be misleading. For example, where profit information prepared in accordance with statutory financial reporting requirements indicates a loss, alternative profit information that excludes certain costs and indicates a profit has the potential to mislead. To minimise this possibility, statutory profit should also be disclosed and the alternative profit information should not be given greater prominence than the statutory profit.

- RG 000.62 Impairment losses, restructuring costs and other expenses are an important part of the performance of a business. They provide an understanding of the impact of the economic and market conditions in which an entity operates, as well as the consequences of management decisions. As impairment losses are generally of a recurring nature and restructuring costs are likely to be of a recurring nature in many businesses (even if they only arise in some years), they should not be described as 'non-recurring' in these circumstances. Similarly, alternative profit information that excludes these items should not be described as 'recurring', described in a way that implies that these items are not an integral part of the performance of the business, or given greater prominence than the statutory profit information.
- RG 000.63 Alternative profit information is not a substitute for disclosing information on the components of the statutory profit that assists users in understanding the performance of an entity or providing an explanation of the underlying drivers of a business.

Use of ratios

- RG 000.64 There are cases where it is necessary or appropriate to include non-conforming financial information in documents accompanying the financial report, market announcements, presentations to investors and briefings to analysts to provide insights into the financial position or performance of an entity. For example, measures of interest cover may assist users in understanding the ability of an entity to meet its funding commitments. Similarly, there may be ratios or measures that are relevant in assessing aspects of financial position or performance across an industry, including measures of compliance with financial condition requirements imposed on the entity by regulators or under lending covenants.
- RG 000.65 Ratios calculated in accordance with common practice and using statutory information may also provide useful information (e.g. current ratio or debt equity ratio). However, if ratios are not calculated and presented consistently over time or are adjusted to exclude selected items (e.g. particular liabilities), they may be misleading. Where ratios are adjusted, the adjustments and the reasons for those adjustments should be provided, and at least equal prominence should be given to the ratio calculated in accordance with common practice and using statutory information.

Other examples

RG 000.66 The following are other examples of practices for disclosure of non-conforming financial information in documents accompanying the financial report, market announcements, presentations to investors and briefings to analysts which are potentially misleading. The examples are not exhaustive and are provided to assist in understanding the approach in this guide:

- (a) giving undue prominence to alternative profit information compared to the prominence given to financial information prepared in accordance with statutory financial reporting requirements. For example, where commentary on the entity's performance relates only to the alternative profit information; where the statutory profit is shown only in a footnote to the alternative profit information; where more extensive analysis is given of alternative profit information than statutory profit information; or where the statutory profit is presented after alternative profit information including presentation in a later section or in the second column of adjacent columns of information;
- (b) changing the emphasis given to the statutory profit and an alternative profit information from period to period (e.g. emphasising whichever profit number gives the most favourable outcome for a period);
- (c) presenting a hypothetical profit figure that does not reflect actual historical performance or alternative profit information based on an average of prior period profits without prominent and adequate explanation of the basis adopted;
- (d) presenting an alternative profit information without providing a detailed explanation as to its components or how it relates to and why it differs from the statutory profit (e.g. disclosing alternative profit information with a footnote to say that it excludes 'one-off' items, but not detailing or explaining the 'one-off' items);
- (e) describing items as 'one-off' or 'non-recurring' that have occurred in the past or are likely to occur in a future period; and
- (f) inclusion of adjustments to the statutory profit in the current period to calculate an alternative profit number, but excluding the equivalent adjustments from the comparative disclosures.

RG 000.67 The guidelines set out above do not affect the disclosure of financial information prepared on the basis of accounting standards as required by Appendices 4C, 4D, 4E and 5B of the Listing Rules of Australian Securities Exchange Limited.

E Transaction documents

Key points

It is often necessary or appropriate to include non-conforming financial information in the form of pro forma financial information in transaction documents. This information is often useful and at times necessary to fulfil disclosure obligations under the Corporations Act.

Pro forma financial information should not be misleading.

When including pro forma financial information in transaction documents, certain guidelines should be followed to minimise the risk of the information being misleading.

Purpose of non-conforming disclosures

- RG 000.68 Under the Corporations Act, documents:
- (a) must not be misleading (see RG 000.53), and/or
 - (b) must contain all information that:
 - (i) in relation to prospectuses, investors and their professional advisers would reasonably require to make an informed assessment of the matters outlined in s710 of the Corporations Act;
 - (ii) in relation to bidder's statements, is material to the relevant decision by a holder of bid class securities whether to accept an offer under the bid (s636(m) of the Corporations Act); and
 - (iii) in relation to continuous disclosure notices, that a reasonable person would expect, if it were generally available to have a material affect on the price or value of securities of an entity.
- RG 000.69 There are many instances where providing non-conforming financial information in the form of pro forma financial information in transaction documents may be useful or necessary to fulfil disclosure obligations under the Corporations Act. For example, it may help users deciding on a business combination to present pro forma financial information showing how the business would appear based on historical information for the combining entities had the transaction occurred at the start of the last financial year. Other relevant financial measures may also be encouraged by other ASIC regulatory guides. One of the benchmarks in Regulatory Guide 69 *Debentures: Improving disclosure for retail investors* (RG 69) is an 'equity capital' ratio).

DRAFT

RG 000.70 However, there is also potential for pro forma financial information to be misleading, particularly if there is no or inadequate disclosure of the basis of its preparation or the differences between it and corresponding statutory financial information. For example, where a scheme of arrangement document shows pro forma consolidated information for an entity and its proposed acquiree as if the acquisition had occurred at the commencement of the previous financial year, there should be adequate disclosure of the basis of preparation and any assumptions applied. The nature of, amounts of and reasons for any adjustments made in deriving that consolidated information from the historical information of the two entities should be adequately disclosed. Such pro forma information should be presented in accordance with the recognition and measurement requirements of accounting standards, subject to assumptions relevant to the notional acquisition and combination of the entities.

RG 000.71 Our guidelines in this section apply to disclosure of pro forma financial information in the following documents (referred to collectively in this guide as ‘transaction documents’):

- (a) prospectuses;
- (b) product disclosure statements;
- (c) takeover bidder’s statements, takeover target statements, and other relevant takeover documents;
- (d) scheme of arrangement documents; and
- (e) notices of meetings (e.g. related party documents under Ch 2E).

The guidelines also apply to the disclosure of non-conforming financial information in offer information statements.

RG 000.72 Our guidelines are designed to assist entities that disclose non-conforming financial information in the form of pro forma financial information in transaction documents to do so in a manner that:

- (a) enables users to properly assess the information; and
- (b) is less likely to be misleading.

Compliance with accounting standards

RG 000.73 Other than offer information statements, the Corporations Act does not specifically require financial information in a transaction document to comply with accounting standards. In our view (having regard to the requirements outlined in RG 000.68 above), users of transaction documents and market announcements reasonably expect financial information for an entity to be prepared and presented in accordance with accounting standards because:

- (a) where past and/or future financial reports of an entity are required to comply with accounting standards, financial information in transaction documents should permit useful comparisons to be made by users of that information;
- (b) users are accustomed to financial information prepared on the basis of accounting standards; and
- (c) disclosure of financial information prepared in accordance with statutory financial reporting requirements enables users to make comparisons with other entities reporting on that basis.

RG 000.74 There may be some circumstances where an entity is unable to disclose information in accordance with accounting standards. For example, there may be practical impediments to providing information prepared in accordance with the accounting standards in a bidder's statement in a takeover. In a hostile takeover situation, the bidder may not have sufficient information from the target's underlying records to determine the adjustments that would be made to the target's financial statements to produce pro forma financial information. If the impact of adjustments cannot be determined, the bidder's statement should include a statement to that effect and the reason why such determination is not possible. The target may have an obligation to disclose the information in the target statement.

RG 000.75 Disclosure of pro forma financial information should be accompanied by:

- (a) full details of the assumptions (including the quantum of any assumption) used to prepare the information;
- (b) the time period covered by the information;
- (c) the risks of any prospective financial information not being achieved; and
- (d) an explanation of how financial information was calculated and the reasons for any departures from accounting standards or industry standards that investors would reasonably expect to be followed.

This is consistent with the guidance set out in Regulatory Guide 170 *Prospective financial information* (RG 170).

RG 000.76 If a particular accounting standard is not followed, the nature, reasons and financial effect of the departure should be prominently disclosed to ensure that the information is not misleading.

DRAFT

Guidelines for presenting information

RG 000.77 Having regard to the requirements outlined in RG 000.68, the following guidelines for use of pro forma and other non-conforming financial information in transaction documents should be followed:

- (a) The guidelines in RG 000.56 can help to reduce the possibility of non-conforming financial information being misleading and are also relevant for non-conforming financial information disclosures in transaction documents.
- (b) Whenever non-conforming financial information is disclosed, the corresponding financial information prepared in accordance with the recognition and measurement requirements of accounting standards should also be disclosed with sufficient prominence. The corresponding information provides users with an objective benchmark against which the non-conforming financial information may be critically assessed.
- (c) A pro forma statement of comprehensive income (or similar) should not stop at the earnings before interest and tax (EBIT), earnings before interest, tax, depreciation and amortisation (EBITDA) or funds from operations (FFO) level. Pro forma financial information is often prepared to show what the financial statements would have looked like, had an acquisition/merger occurred at the beginning of the reporting period. The argument is sometimes raised that it is necessary to stop at the EBIT, EBITDA or FFO level because the method of funding the deal, the impact of the taxation arrangements under the new structure, and amortisation of assumed assets are unknown. A pro forma contains many assumptions. If it is possible to make reasonable assumptions about other impacts of an acquisition/merger (e.g. synergies from the acquisition/merger), it would ordinarily be possible to make reasonable assumptions regarding likely funding, tax and amortisation impacts, and accordingly to provide a statement of comprehensive income that continues to net profit after tax. This information would be expected to be relevant to decision making by users of the transaction document and entities should endeavour to ensure that they are in a position to make reasonable assumptions about these matters as well as the other inputs into the pro forma.
- (d) A pro forma statement of financial position should not simply disclose assets and liabilities and omit details of equity.
- (e) Consistent with RG 170.66, when a range of prospective financial information is disclosed, a more favourable figure or fact within that range should not be given undue prominence. In some circumstances, pro forma financial information could potentially be misleading to investors if, for example, that pro forma information includes information based on a hypothetical scenario. As a minimum, additional explanation of any potentially misleading information should be

DRAFT

provided. However, in other cases, the pro forma information should not be provided.

- (f) The amount and nature of all material adjustments that have been made to the statutory financial information to derive the pro forma financial information should be disclosed by way of a reconciliation.
- (g) Whether or not the pro forma and statutory financial information has been audited or reviewed should be disclosed.
- (h) Any financial ratios prepared on the basis of pro forma financial information should be calculated on the same basis as they would be calculated using the relevant statutory financial information (which should also be disclosed).
- (i) Where financial or other ratios are presented on a basis that differs from the basis generally used in practice (e.g. a gearing ratio that excludes certain liabilities), the common use ratio should be presented with at least equal prominence and the basis of, and reasons for, amending the ratio adequately explained.
- (j) All relevant material assumptions underpinning the pro forma financial information should be disclosed.
- (k) Where pro forma financial information is provided to reflect a particular transaction such as an acquisition or sale of an entity or operation, the information must reflect the full transaction and not selected aspects of it.
- (l) If presenting financial information for overseas entities, a 'convenience translation' into Australian currency may be acceptable with adequate disclosure, if the actual translation is impractical.
- (m) If presenting financial information for overseas entities prepared under a foreign GAAP, where the foreign GAAP financial information departs materially from that prepared under Australian accounting standards, the corresponding financial information prepared in accordance with Australian accounting standards should also be presented. This is particularly important for schemes of arrangement or takeovers where existing investors receive financial reports in accordance with Australian accounting standards or will receive such financial reports in the future. In some circumstances, such as where there are few line items affected or the transaction is a fundraising by a foreign entity that only produces financial reports under a foreign GAAP, it may be sufficient to reconcile net assets and profit after tax to provide information for Australian investors to make a comparison with other investment opportunities in Australia. If there is no material difference between applying foreign GAAP and Australian accounting standards, a statement to that effect should be provided.

DRAFT

- (n) Generally, we would expect as a minimum that where historical pro forma financial information in the form of a Statement of Financial Position is disclosed, the most recent half year (if applicable) and full year should appear. Where historical pro forma financial information in the form of an Income Statement is disclosed, the most recent half year (if applicable) and preceding two full years should appear.

RG 000.78 The form of reconciliation referred to in RG 000.77(f) may be derived from the following two options:

- (a) a line-by-line reconciliation of pro forma financial statements prepared with significant reconciling items shown in a separate column and described through footnotes (this is our preferred option);
- (b) reconciliation of key items such as profit after tax and net assets (or perhaps also other items such as current assets, non-current assets, current liabilities, non-current liabilities, revenue, expenses and operating profit before tax). This option would only be used when there are a limited number of reconciling items, and each significant reconciling item is separately described.

Key terms

Term	Meaning in this document
AASB	Australian Accounting Standards Board
AASB 101 (for example)	An Australian accounting standard made by the AASB for the purposes of the Corporations Act (in this example numbered 101)
accounting standards	As defined in s9 of the Corporations Act (also referred to as 'Australian accounting standards')
alternative profit information	Has the meaning set out in RG 000.20
ASIC	The Australian Securities and Investments Commission
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
GAAP	Generally accepted accounting principles
market announcements	Any announcements made to a securities exchange and ASIC
non-conforming financial information	Has the meaning set out in RG 000.13
operating and financial review (OFR)	The review required by s299A of the Corporations Act, also known as management commentary or management discussion and analysis
pro forma financial information	Has the meaning set out in RG 000.19
statutory financial reporting requirements	Has the meaning set out in RG 000.18
transaction documents	Prospectuses, product disclosure statements, takeover bidder's statements, takeover target statements, other relevant takeover documents, scheme of arrangement documents, and related party documents under Ch 2E

Related information

Headnotes

non-conforming financial information, pro forma financial information, misleading and deceptive conduct

Class orders

[CO 98/1418] *Wholly-owned entities*

[CO 05/0642] *Combining financial reports of stapled security issuers*

[CO 05/0644] *Disclosing post balance date acquisitions and disposals*

[CO 06/0441] *Including different registered scheme financial reports in a single document*

Regulatory guides

RG 43 *Financial reports and audit relief*

RG 69 *Debentures: Improving disclosure for retail investors*

RG 170 *Prospective financial information*

Legislation

Corporations Act s295(1)–(3), 296, 297, 298, 299, 299A, 303(1)–(3), 305, 306, 307, 314, 670A, 1041E, 1041H, 1308, 1309

Consultation papers

CP 150 *Disclosing financial information other than in accordance with accounting standards*