



27 February 2018

Mr Murray Crowe
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Mr Crowe,

The Charity Law Association of Australia and New Zealand (CLAANZ) welcomes the opportunity to make this submission to the five year review of the Australian Charities and Not-for-Profits Commission Act 2012 (Cth).

CLAANZ is a registered charity with the purpose of advancing education in relation to charity law.

The directors of CLAANZ have had the benefit of considering the detailed submission to the current review prepared by the Law Council of Australia. CLAANZ is pleased to endorse that submission in its entirety.

In addition, CLAANZ would make the following point in relation to the proposed external conduct standards. Those standards, notwithstanding that they were due to commence on 1 July 2013, have not yet been developed. According to the explanatory memorandum to the ACNC Act, the standards are to be principle-based minimum standards which:

- regulate funds sent by registered entities outside Australia and activities engaged in by such entities outside Australia; and
- empower the ACNC Commissioner to take enforcement action in relation to any registered entity's operations offshore where there is a contravention of these standards (and such enforcement action could include giving warnings and directions, seeking enforceable undertakings, seeking injunctions, or suspending or removing responsible persons).

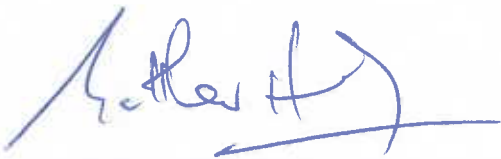
Currently, those registered charities who are members of the Australian Council for International Development (ACFID) are subject to ACFID's Code of Conduct and those who have Overseas Aid Funds under the Department of Foreign Affairs and Trade's Overseas Aid Gift Deduction Scheme (OAGDS) have to comply with the OAGDS Guidelines (which reference the ACFID Code of Conduct). Both the ACFID Code of Conduct and the OAGDS Guidelines contain generally-accepted principles of good aid and development developed over the last 5-6 decades; they reference internationally-recognised best practice around how humanitarian aid and development activities should be carried out, and also legal obligations around the current areas of high risks such as child protection, terrorism financing, money laundering and fraud generally.

Increasingly, registered charities who undertake aid and development activities overseas do not have to conduct themselves in accordance with these principles. In our view, the time is right for common principle-

based standards to be set for all organisations undertaking activities overseas. The standards to be developed, in so far as they apply to those whose activities are aid and development, should have regard to the ACFID Code of Conduct and the OAGDS Guidelines but be balanced and proportionate in terms of impact on the many different types of registered charities undertaking such activities.

Please do not hesitate to contact CLAAZ at admin@clanz.org.au should you wish to speak to us about any aspect of this submission.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Matthew Harding', with a long horizontal stroke extending to the right.

Professor Matthew Harding

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Deputy Dean, Melbourne Law School

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