The Ian Potter Foundation

1 February 2016

General Manager
Law Design Practice
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Tom,

Submission relating to proposed amendments to the Public Ancillary Fund Guidelines 2011

The following submission is in response to the Assistant Treasurer's recently released proposed amendments to the Public Ancillary Fund Guidelines 2011.

Our focus is on the proposed amendments to the calculation of annual distribution requirements, effectively replacing the current minimum distribution requirement of 4% for Public Ancillary Funds, to a formulaic approach reflecting the lower of (1) the RBA cash rate, or (2) the % change in the value of a fund's NAV; which is designed "…to provide greater flexibility in unexpected economic conditions…".

<u>Background</u>

The Ian Potter Foundation ('IPF') is a major Australian philanthropic fund. The Foundation executive and Board of Governors adopt a strategic, long term approach to annual giving, resulting in a combination of annual grants as well as multi-year, strategic grants that are provided to Australian charitable organisations.

The Foundation is in favour of a flexible annual funding requirement that reflects the underlying financial market conditions within which IPF is operating, combined with the recognition that IPF will make some grants each year, irrespective of the financial performance of the Corpus.

<u>Minimum Distribution Requirement</u>

The Foundation is in favour of the proposal to move from a minimum 4% distribution for Public Ancillary Funds to the lower of the RBA cash rate or the change in the net asset value, as it aligns distributions with the financial performance of the Foundation's Corpus. Whether this proposed change is made or not, the Foundation would propose that an averaging provision be introduced in a manner that ensured that the cumulative aggregate of distributions since say 1st July 2016 would never be below the aggregate minimum distribution.

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The Board of Governors of The Ian Potter Foundation would wish to maintain, if possible, a minimum distribution each year. IPF would also hope that government and any relevant regulatory body would understand that IPF would continue to fund multi-year grants, meaning that IPF would make regular donations over the long term to charitable organisations, irrespective of prevailing financial market returns.

In such instances where a Foundation may "over-give" in a financial year, relative to the calculated minimum distribution required by the proposed amended Public Ancillary Fund Guidelines, IPF would recommend that these Foundations be allowed to calculate an "excess distribution amount" each year, and maintain an aggregate "excess distribution balance".

This "excess distribution balance" could be applied to meet minimum distribution requirements in future years provided the aggregate distribution at the end of any financial year never fell below the aggregate minimum distribution requirement; such aggregate distributions (minimum as required by the guidelines and actual as distributed by a Foundation) to be calculated as commencing on 1 July 2016. Such a consideration would achieve three goals:

1. "Smooth" annual giving by Foundations to charitable organisations, and avoid the prospect of volatile annual distribution as a result of volatile financial markets
2. Ensure the aggregate minimum distribution requirement, calculated each year since inception (1 July 2016), was always met as a minimum by Foundations, so that charities and the community were not disadvantaged
3. Allow Foundations practising strategic philanthropy (long term commitments to strategic partners) not to be disadvantaged over the long term; particularly should minimum returns increase to levels similar to those experienced in 2005 to 2007 when cash rates and financial market returns were high relative to today's lower returns environment.

The following example seeks to explain how the concept of an annual excess distribution amount and an excess distribution balance might work.

Illustrative Example

	Year 1	**Year 2**	**Year 3**	**Year 4**
Fund Value	100,000,000	98,000,000	112,000,000	107,000,000
% Change	-2.0%	2.0%	20.0%	15.0%
Cash Rate	2.5%	3.0%	6.5%	7.0%
Minimum Distribution Requirement	8,800	1,960,000	7,280,000	7,490,000
Actual Distribution (%)	2.0%	3.0%	5.0%	5.8%
Actual Distribution ($)	2,000,000	2,940,000	5,600,000	6,206,000
Excess Distribution Amount ($)	1,991,200	980,000	(1,680,000)	(1,284,000)
Aggregate Excess Distribution ($)	1,991,200	2,971,200	1,291,200	7,200

As can be seen from the above illustration, as the annual minimum distribution requirements increases in years 3 and 4, the Foundation would “benefit” from the excess funding provided in years 1 and 2, when annual funding paid by the Foundation exceeded the minimum distribution requirement.

Such calculations would be easily administered by a Foundation and could be incorporated into annual reporting to the ACNC.

IPF believes that adequate consideration of the above issue, and implementation of such a concept, would appropriately reflect the evolving nature of “strategic philanthropy”, where multi-year grant commitments are becoming the norm for many Foundations.

The Ian Potter Foundation is supportive of the proposed amendments to the calculation of annual distribution requirement for Public Ancillary Funds, subject to such amendments appropriately incorporating the concept of an annual excess distribution and an aggregate excess distribution.

Yours Sincerely

[redacted]

Craig Connelly
Chief Executive Officer