

22 June 2016

Commercial, Consumers and Communications Branch
Ministry of Business, Innovation and Employment
P O Box 1473
Wellington

By email: societies@mbie.govt.nz

Dear Sirs

Request for Comment on Exposure Draft – Incorporated Societies Bill

Thank you for the opportunity to comment on the above Exposure Draft, on behalf of BDO New Zealand.

We welcome the Ministry of Business and Innovations' (MBIE's) proposal to implement modern legislation to help guide the Incorporated Societies sector. We are supportive of the aim to provide guidance to ensure that members on the committees of these Incorporated Societies have a clear understanding of what is required and the responsibilities that being an officer of society entails.

We note that there are no specific questions raised by MBIE in relation to the Incorporated Societies Bill, but submissions have been requested, whether they be general or more specific.

Our submission focusses on the key areas that we have identified that are relevant to our profession and the situations that may arise for our clients under the proposed new bill. These being the financial reporting obligations and audit or review requirements.

We have some reservations around the audit and review requirements for Incorporated Societies. We have included our detailed responses in Appendix A.

We hope that our comments and suggestions are helpful. Should you wish to discuss any of the points we have raised please contact Michael Rondel (michael.rondel@bdo.co.nz) or if you require further information.

Yours faithfully,

BDO New Zealand

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Appendix A

Clause 82 - Accounting records must be kept

Clause 82(1)(c) requires that accounting records must be kept that would enable the financial statements to be readily and properly audited (if required under any enactment).

We note however, that the Bill is silent on any audit requirements, and instead refers to other enactments, which would include the Charities Act 2005. Therefore, any Incorporated Societies that are not registered charities, by default would have no audit or review requirement.

The MBIE request for submissions document sections 106 to 109 outlines the rationale behind this, being that registered charities are accountable to the wider society because of the tax exemptions associated with being a registered charity. The MBIE considers that Incorporated Societies should therefore be treated the same as other entities that are not publically accountable.

A number of Incorporated Societies also have tax exemptions for income obtained within the circle of membership, which in many cases, represents all of the activities of these Societies. Requiring an audit for Incorporated Societies should be considered upon the same basis outlined in the MBIE document. This would ensure that there is consistency between all entities within the not-for-profit sector.

Further, due to the fiduciary capacity that the governing body has over member's funds, we consider it appropriate for Incorporated Societies to be subject to the same audit or review requirements as registered charities. Effectively, there is separation between the "owners" and the governing body.

It should be noted that separation between owners and the governing body has also been contemplated in legislation in the for-profit sphere. If a company has more than 10 shareholders (regardless of size) it is scoped into general purpose financial reporting and audit requirements (Companies Act 1993 Section 200 and Section 206), although there are opt-out provisions available if more than 95% of (voting) shareholders agree. The rationale for scoping companies with more than 10 shareholders into the financial reporting regime is that the more owners there are, the less likely they are to be involved in the day to day running of the company and thus they need a mechanism to obtain detailed financial information about their investment.

Based on the above, we believe that there is sufficient precedent to require Incorporated Societies to be subject to the same audit or review requirements as registered charities so as to provide members with some level of assurance. We do acknowledge however, that some Incorporated Societies are small, and therefore an audit or a review will not be cost effective. We recommend that consideration be given to the current requirements for registered charities with regard to the scale of operations which determine if the entity is required to be audited or reviewed, and that the same principles be applied to Incorporated Societies.

Alternatively, consideration could be given to the current opt out provisions that are available for companies that have more than 10 shareholders. I.e. an Incorporated Society could opt out of the audit or review requirements if they obtain support each year from 95% or more of the members to do so.

Clauses 83 to 84 - Financial Reporting

We are supportive of the proposals to require all Incorporated Societies to prepare financial statements based on accounting standards issued by the External Reporting Board, as this will result in more consistent, better quality financial statements being prepared across this sector.

We are also supportive of the reporting timetable being aligned with those of registered charities.

As mentioned under Clause 82 above, we recommend that a requirement for audit or review similar to that of registered charities also be included under the Financial Reporting section.