



EXTERNAL REPORTING BOARD

Te Kāwai Ārahi Pūrongo Mōwaho

28 June 2012

Head of Compliance Monitoring
Financial Markets Authority
Level 8, Unisys House
56 The Terrace
PO Box 1179
WELLINGTON 6011

Email: consultation@fma.govt.nz

Attention: Elaine Campbell

Dear Elaine

Draft Guidance Note: *Disclosing non-GAAP financial information*

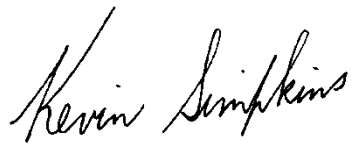
1. The External Reporting Board (XRB) is pleased to submit its comments on the Financial Markets Authority's (FMA) Draft Guidance Note: *Disclosing non-GAAP financial information*.
2. The XRB commends the FMA for issuing guidance on non-GAAP financial information and supports the principles underlying the Guidance Note.
3. We support the use of the term "non-GAAP" (rather than non-IFRS) in the Guidance Note. We draw your attention to the XRB's recent decision to implement a multi-standards accounting framework for New Zealand entities. Under the framework, while for-profit issuers in New Zealand will continue to apply New Zealand Equivalents to International Financial Reporting Standards (NZ IFRS), public benefit entity issuers will be required to comply with Public Benefit Entity Standards (PBE Standards). The use of the term "non-GAAP" will future-proof the Guidance Note. In this regard, we suggest that the references in paragraph 6 and in the Glossary of Terms to "IFRS" merely refer to New Zealand Generally Accepted Accounting Practice (NZ GAAP).
4. The XRB also strongly supports the statement in paragraph 6 of the Guidance Note that within financial statements, non-GAAP financial information should not be provided except as permitted or provided for under GAAP or legislation, and that GAAP information should be given prominence. It should be noted that GAAP permits and requires the disclosure of additional line items and/or additional information where the inclusion of such information is required in order to present a true and fair view.
5. Our comments on specific matters and to the Consultation Paper Questions are set out in the attached.
6. Our comments in this letter focus only on matters that relate to financial reporting.

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7. Please do not hesitate to contact me or Lay Wee Ng [laywee.ng@xrb.govt.nz] if you need any further information.

Yours sincerely,

A handwritten signature in black ink that reads "Kevin Simpkins". The signature is written in a cursive, flowing style.

Kevin Simpkins

Chairman

Responses to Consultation Paper Questions

CPQ1– Do you agree that we should provide guidelines? If not, why not?

We agree that guidelines should be provided given the widespread and unregulated use of the term “underlying profit” by entities and the media.

CPQ2 – Do you consider the proposed guidelines are appropriate? If not, please suggest alternative guidelines, including your reasons.

Subject to our specific comments and except for the proposal requiring non-GAAP information to be consistent with the financial statements, we consider the guidelines appropriate if they are limited to financial information outside the legally required GAAP financial statements and to pro-forma financial information.

CPQ3 – Do you consider the guidelines are practicable? If not, please outline any aspects of the proposed guidelines you consider impracticable, including your reasons.

We have no comment to make on this question.

CPQ4 – Do you agree with the proposed definitions in Section B *What is non-GAAP financial information*? If not, what alternative definitions do you propose and why?

Subject to our specific comments, we agree with the proposed definitions in Section B *What is non-GAAP financial information*?

CPQ5 – Do you consider the guidance for reported non-GAAP financial information to not be given undue prominence appropriate? Do you agree with FMA’s definition and explanation of undue prominence? If not, why not?

Subject to our specific comments, we agree that the guidance for reported non-GAAP financial information to not be given undue prominence to be appropriate. We also agree with the definition and explanation of undue prominence.

CPQ6 – Do you consider FMA should also provide guidance in respect of the presentation of non-GAAP financial information in statutory financial statements? If yes, what do you consider should or should not be permitted to be included within statutory financial statements, and why?

We do not agree that the FMA should provide guidance in respect of the presentation of non-GAAP financial information in statutory financial statements. The law and applicable financial reporting standards apply to statutory financial statements.

However, where the FMA becomes aware of any systemic non-compliance, or of any variation in practice, in relation to a particular standard, it would be helpful if the FMA could bring these to

our attention so that we can consider whether there is an issue with the underlying standard and/or with its application.

CPQ7 – Do you agree that where non-GAAP information is presented a reconciliation to the corresponding GAAP financial information should also be provided for that period (including comparative periods)?

We strongly agree that where non-GAAP information is presented, reconciliation to the corresponding GAAP financial information should also be provided for that period (including comparative periods). Users need to know why and how non-GAAP information differs from statutory financial statements so they can assess the usefulness or otherwise of the information and decide how to treat the information when making investment decisions.

In this regard, we note that the Guidance Note (in Section C – Table 1 on *Calculation and Reconciliation*) requires a clear narrative explanation on how non-GAAP financial information is calculated and for the reconciliation to show how the number is calculated. Both the narrative and the reconciliation are important information, particularly where the underlying assumptions to the GAAP and non-GAAP information are dissimilar. We strongly support these requirements and disclosures.

CPQ8 – Do you think there are any current practices in relation to disclosing non-GAAP financial information that are misleading to the market that have not been addressed? If so, please provide examples.

The current practice by the media to refer to underlying profits of an entity without also disclosing the basis for the figures or how those figures compare or relate to GAAP financial information is potentially misleading and confusing to users. We note that the Guidance Note is intended for use in various documents, including market announcements. It may be useful for the Guidance Note to strongly encourage third parties who broadcast or disseminate non-GAAP information to ensure that they also include an adequate explanation for the basis of the non-GAAP information.

CPQ9 – Do you consider the proposed timeframes for application of the guidance note to be reasonable?

The XRB is of the view that the proposed guidance should be implemented as soon as practicable and the proposed timeframes for application of the Guidance Note is consistent with this view.

CPQ10 – Are there any other financial reporting or market disclosure issues you wish to provide feedback on?

Other than our comment in CPQ8, we have no other financial reporting or market disclosure issue to raise.

CPQ11 – Have we overlooked any important considerations?

We have no other comments to make.

**External Reporting Board's Submission on the Financial Markets Authority's Draft Guidance
Note: *Disclosing non-GAAP financial information***

Company or entity: External Reporting Board
Organisation type: Statutory Body
Contact person: Lay Wee Ng
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Phone: 04-550 2035
Total pages: 7 (including cover letter)
Date: 28 June 2012

GN para/table	Topic	Submission	Recommendation
Background and scope	Reference to GAAP and non-GAAP financial information.	As non-GAAP information has no legal standing, the disclosure of GAAP information should always be a preference over non-GAAP information, notwithstanding that there may be circumstances where non-GAAP information will be useful.	The Guidance Note should, as a lead-in to the section, <i>Background and scope</i> , emphasise that the preference is that entities disclose GAAP information, where available, over non-GAAP information.
Para 10; Section B: Key Points, first bullet point	Paragraph 10 states that it may be "necessary or appropriate" to include non-GAAP financial information.	Given that non-GAAP information is unlikely to be mandatory or specified in legislation, we consider that the paragraph should emphasise the requirements of GAAP while acknowledging that non-GAAP may be useful under certain circumstances.	We recommend that paragraph 10 be reworded to emphasise the requirements of GAAP while acknowledging that non-GAAP may be useful under certain circumstances.
Section C – Key points, p.7	Non-GAAP information to "be consistent with the financial statements".	By its nature, most non-GAAP information is unlikely to be consistent with financial statements. Requiring non-GAAP information to be consistent with financial statements is potentially confusing.	Given that by its nature, most non-GAAP information is unlikely to be consistent with financial statements, we recommend that this statement be deleted. We note that such a requirement is not

GN para/table	Topic	Submission	Recommendation
			<p>included in Australia's Regulatory Guide 230 <i>Disclosing non-IFRS financial information</i>.</p> <p>If this requirement is retained, we suggest that the Guidance Note includes an explanation.</p>
Section C – Key points and Table 1	Refers to non-GAAP financial information being unbiased and not used to remove or disguise “bad news”.	Non-GAAP information should be neutral in the manner in which good and bad news are presented.	This should be expanded to also prevent non-GAAP financial information from being used to over-emphasise good news only.
Section C – Table 1; Section D – Table 2	Audited or reviewed – It is proposed that a statement be made about whether the non-GAAP financial information has been taken from audited or reviewed financial statements.	We consider that this should require a statement whether or not the non-GAAP financial information has been extracted from audited or reviewed financial statements. We note the absence of a similar requirement about “audited or reviewed” in Table 2 in respect of pro-forma financial information.	<p>We recommend that the Guidance Note requires a clear statement on whether or not the non-GAAP financial information has been extracted from audited or reviewed financial statements.</p> <p>We also recommend that a similar requirement be included in Table 2 in respect of pro-forma financial information.</p>
Para 24	Requires an explanation if non-GAAP profit information disclosed differs from the segment reporting disclosures in the financial statements. No explanation is required if the differences comprise only normal inter-segment eliminations or corporate expense allocations.	Reconciliation to the segment reporting disclosures should always be required where non-GAAP financial information is extracted from segment reporting disclosures in the financial statements.	We recommend that the paragraph requires reconciliation to the segment reporting disclosures in the financial statements where non-GAAP financial information is extracted from those segment disclosures.
Table 3 <i>IFRS and IFRS</i>	Defines <i>IFRS</i> and <i>IFRS financial information</i> .	Given that New Zealand entities will be operating	The terms <i>IFRS</i> and <i>IFRS financial information</i>

GN para/table	Topic	Submission	Recommendation
<i>financial information</i>		under a multi- standards framework in the near future, these terms will not be appropriate for public benefit sector issuers. Moreover, the legally required financial reporting standards in New Zealand are <u>NZ IFRS</u> , not <i>IFRS</i> . If included, the relevant term “NZ IFRS” should be the defined term as standards issued by the International Accounting Standards Board (IASB) have no legal standing in New Zealand. Only financial reporting standards issued by the New Zealand Accounting Standards Board (NZASB) and/or the External Reporting Board (XRB) under section 24 of the Financial Reporting Act 1993 have legal standing.	should be deleted from the Guidance Note to future-proof it under a multi-standards framework. If included, the relevant terms should be “NZ IFRS” and “NZ IFRS information”.