



Associations Incorporation Act 2009 Regulatory Guide A1

Financial Reporting Requirements for a Class of Tier 1 Associations

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Contact details

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Table of Contents

| | | |
|-----------|--|----------|
| 1. | Regulatory Guide Statement | 1 |
| 1.1 | About this guide | 1 |
| 1.2 | Disclaimer | 1 |
| 2. | Overview | 2 |
| 2.1 | Class Order 11/01 | 2 |
| 3. | What is a Tier 1 association? | 3 |
| 3.1 | What are the legislative requirements for financial reporting for a Tier 1 association? | 3 |
| 3.2 | Why have Class order 11/01? | 3 |
| 3.3 | Who is covered by Class order 11/01? | 4 |
| 3.4 | What is required of a Tier 1 association covered by Class order 11/01? | 4 |
| 3.5 | Is the Class order mandatory? | 5 |
| 3.6 | What financial reporting period does Class order 11/01 refer to? | 6 |
| 3.7 | What financial reporting obligations apply if the incorporated association is a Tier 1 association not covered by Class order 11/01? | 6 |
| 4. | Other reporting requirements | 7 |
| 4.1 | Exemption for associations registered with the Australian Charities and Not-for-profits Commission | 7 |
| 4.2 | Other Class orders | 7 |
| 5. | Related documents | 8 |
| 6. | Document Control | 9 |
| 6.1 | Document Approval | 9 |
| 6.2 | Review Date | 9 |

1. Regulatory Guide Statement

In administering the *Associations Incorporation Act 2009* (the Act) NSW Fair Trading:

- provides Policies and Regulatory Guides to assist regulated entities by:
 - explaining when and how Fair Trading will exercise specific powers under the *Associations Incorporation Act 2009*
 - explaining how Fair Trading interprets the law
 - describing the principles underlying Fair Trading's approach
 - giving practical guidance and information about exemptions and orders made under authority of the legislation.
- prepares Class Orders being orders that vary or exempt persons or entities from regulatory requirements pursuant to statutory authority within the legislation.

1.1 About this guide

This is a guide for incorporated associations and those persons preparing and auditing financial statements of Tier 1 associations under the *Associations Incorporation Act 2009*.

Associations and those who prepare or audit financial statements for associations should also refer to section 43 of the *Associations Incorporation Act 2009* and Clauses 8 and 9 of the *Associations Incorporation Regulation 2016* together with [Class Order 11/01](#)

Class order 11/01 provides a variation and refinement/relaxation of certain financial reporting requirements for a class of Tier 1 associations that will satisfy the reporting requirements specified in the legislation for Tier 1 associations.

This guide is prepared based upon the legislation as at October 2019 and Class Order 11/01.

1.2 Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the 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.

2. Overview

The *Associations Incorporation Act 2009* (the Act) commenced operation on 1 July 2010. It establishes a two tiered reporting system for incorporated associations. Tier 1 or large associations are required to prepare and submit to each annual general meeting (AGM) audited financial statements for the previous financial year and lodge these on the Register of Incorporated Associations.

The Act requires that financial statements prepared by a Tier 1 association must be prepared in accordance with Australian Accounting Standards and must deal with such matters as are prescribed by the *Associations Incorporation Regulation 2016* (the Regulation).

Tier 2 associations are smaller associations and have a separate and less rigorous reporting requirement.

This regulatory guide relates to Tier 1 associations.

The Secretary/Commissioner for Fair Trading may specify additional financial reporting requirements and may also exempt a particular association or a class of associations from requirements to report in accordance with Australian Accounting Standards by publishing a written Order or Class order in the NSW Government Gazette.

2.1 Class Order 11/01

[Class Order 11/01](#) affecting financial reporting requirements for certain Tier 1 associations, published in the NSW Government Gazette on 3 June 2011, provides an exemption from the full rigour of financial reporting in accordance with Australian Accounting Standards for Tier 1 associations with total revenue of less than \$2 million in any financial year. The class order, instead, sets out the specific reporting requirements with reference to relevant Australian Accounting Standards.

Specifically, the Class order provides that Tier 1 associations with total revenue less than \$2 million in any year shall prepare a statement of income and expenditure and balance sheet setting out appropriately classified and detailed sources of income and applications of expenditure and assets and liabilities, together with statement(s) of movement in equity and a statement of accounting policies. The recognition, measurement and classification of transactions are to be in accordance with Australian Accounting Standards.

3. What is a Tier 1 association?

A Tier 1 association is defined by section 42(1) of the Act and Clause 8 of the Regulation as one that has:

- total revenue at the end of the last financial year exceeding \$250,000, or
- current assets exceeding \$500,000. Current assets are defined as the assets (other than real property or assets capable of depreciation) held by an association as at the end of the last financial year including amounts held in financial institutions, stocks and debentures.

3.1 What are the legislative requirements for financial reporting for a Tier 1 association?

Section 43(2) of the Act requires that financial statements for Tier 1 associations must be prepared in accordance with the Australian Accounting Standards and must deal with such matters as are prescribed by the regulations.

Clause 8 (2) and (3) of the Regulation states that the Secretary may specify the financial reporting requirements for an association or class of associations in accordance with Australian Accounting Standards and may exempt an association or class of associations from the requirement to prepare financial statements in accordance with the Australian Accounting Standards. Such an exemption may be given either generally or as otherwise specified in the exemption.

Section 43(1) (a) of the Act also requires that such an association must prepare financial statements for any trust for which it is the trustee.

3.2 Why have Class order 11/01?

A full requirement for financial statements for Tier 1 associations to be prepared in accordance with Australian Accounting Standards could impose a significant burden on some Tier 1 associations. Incorporated associations are not formed to provide investment or other profit seeking opportunities. Rather they are entities that cannot distribute profit or surplus and are formed to provide member services or other broad community and charitable services.

The purpose of Class order 11/01 is to ensure that the class of Tier 1 associations specified in the order prepare financial statements which provide useful, consistent and comparable detailed financial information to the users of their financial statements without imposing an unnecessary financial reporting burden on these associations. This includes preparation of a detailed income and expenditure statement.

Class order 11/01 aims to ensure an appropriate level of transparency and accountability for incorporated associations, taking into account likely needs of persons who may wish to utilise the services of an incorporated association or make charitable donations to these entities.

3.3 Who is covered by Class order 11/01?

Associations which meet the criteria for a Tier 1 association under the legislation and also have total revenue of less than \$2 million are covered by the Class order. The Class order applies to the class of Tier 1 associations irrespective of whether they would be classified as a reporting entity or non-reporting entity in accordance with Australian Statements of Accounting Concepts and Australian Accounting Standards.

3.4 What is required of a Tier 1 association covered by Class order 11/01?

The detailed requirements for financial reporting for the class are as set out in the Class order No. 11/01.

To ensure consistency and comparability in financial reporting, Tier 1 associations in the class must comply with the requirements of AASB 1048 "Interpretation of Standards" and AASB 108 'Accounting Policies, Changes in Accounting Estimates and Errors". Any changes in accounting policies and estimates and errors must be reported in the financial statements as required by these standards.

In summary, Tier 1 associations defined in Class order 11/01 shall prepare a statement of income and expenditure and balance sheet setting out appropriately classified detailed sources of income and expenditure and assets and liabilities, together with statement(s) of movement in equity and a statement of accounting policies. The recognition, measurement and classification of transactions shall be in accordance with Australian Accounting Standards.

In addition, the following reporting requirements also apply:

- **Financial statements for trusts of which an association acts as trustee**

Subsection 43(1) (a) of the Act requires that a Tier 1 association must prepare financial statements in respect of any trust for which it acts as trustee. Financial statements in respect of trusts must also be prepared in accordance with Australian Accounting Standards. Class order 11/01 provides the same exemption and other reporting requirements for financial statements of a trust where a Tier 1 association covered by the Class order acts as trustee.

- **Consolidated financial statements**

Using the criteria for preparation of financial statements for an individual association as set out in the Class order, an association covered by the Class order must also prepare a consolidated statement of income and expenditure and a consolidated balance sheet which consolidates its investment in any subsidiaries, as defined by AASB 127, except for any trusts for which it acts as trustee.

- **Details of mortgages, charges and other securities**

Clause 9 (1) (a) of the Regulation requires that the financial statements must include details of any mortgages, charges and other securities affecting any property owned by the association.

- **Is a statement of cash flow required?**

A Tier 1 association covered by the Class order is not required to include a statement of cash flows at this time. However, this does not preclude an association from including a statement of cash flows where the committee considers that such a statement is important in providing information to users of the financial statements.

This decision will be kept under review. If the Class order is varied in future in this respect, associations will be advised.

3.5 Is the Class order mandatory?

The Class order is not mandatory. Its purpose is to provide relief in the preparation of financial statements to associations falling within the class which are reporting entities and to encourage the provision of information which is useful and understandable to the normal users of their financial statements.

3.6 What financial reporting period does Class order 11/01 refer to?

Class order 11/01 applies to financial statements of Tier 1 associations covering financial periods ending after 30 June 2010.

3.7 What financial reporting obligations apply if the incorporated association is a Tier 1 association not covered by Class order 11/01?

Tier 1 associations whose:

- total revenue for a financial year is greater than \$2,000,000 in the income and expenditure statement for that financial year

must prepare their financial statements in accordance with the requirements of section 43(2) of the Act. That is, financial statements for these Tier 1 associations must be prepared in accordance with the Australian Accounting Standards and must deal with such matters as are prescribed by the regulations.

This requirement does not preclude such a Tier 1 association from including a detailed income and expenditure statement in its financial statements.

4. Other reporting requirements

While Class order 11/01 sets out the financial reporting requirements for a class of Tier 1 associations under the *Associations Incorporation Act 2009*, associations should also consider any other reporting requirements they have, for example the reporting requirements for holders of an authority to fundraise issued under the *NSW Charitable Fundraising Act 1991*, and must take these into consideration when preparing financial statements.

4.1 Exemption for associations registered with the Australian Charities and Not-for-profits Commission

Incorporated associations that are also registered with the Australian Charities and Not-for-profits Commission (ACNC) are exempted from the requirement to lodge an Annual summary of financial affairs with Fair Trading provided the following conditions are met:

- The association must comply with the obligations under Division 60 *Australian Charities and Not-for-profits Commission Act 2012*
- The association must provide to the ACNC all of the information that it would have been required to provide to Fair Trading under Division 1 or Division 2 of Part 5 of the *Associations Incorporation Act 2009*
- If information is not included on or is removed from the ACNC Register under section 40-10 of the ACNC Act or ACNC Regulation, then the association must lodge relevant financial reports with Fair Trading
- The association must not report to the ACNC as part of a reporting group under subdivision 6—G of the ACNC Act.

The exemption commenced on 1 October 2018 and applies for the financial years ending on or after 30 June 2018. Information is available in [Exemption order No. 001/18](#) Financial reporting requirements.

4.2 Other Class orders

The attention of Tier 1 associations is also drawn to [Class order No. 10/01](#) concerning Qualifications of auditors and [Class order No. 10/02](#) concerning Independence of auditors.

5. Related documents

| Issuer | Reference | Document Name |
|------------------|------------------|--|
| NSW Fair Trading | No 7 | <i>Associations Incorporation Act 2009</i> <i>Associations Incorporation Regulation 2016</i> |
| NSW Fair Trading | 27 May 2011 | <i>Associations Incorporation Act 2009</i> Class order No. 11/01 – Financial reporting requirements for a class of Tier 1 associations |
| NSW Fair Trading | 3 August 2010 | <i>Associations Incorporation Act 2009</i> Class order No. 10/01- Exemption from requirement to have a registered company auditor |
| NSW Fair Trading | 3 August 2010 | <i>Associations Incorporation Act 2009</i> Class order No. 10/02 – Exemption relating to auditor independence requirements |
| NSW Fair Trading | 4 September 2018 | <i>Associations Incorporation Act 2009</i> Exemption order No. 001/18 – Financial reporting requirements |

6. Document Control

6.1 Document Approval

| Name & Position | Signature | Date |
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6.2 Review Date

This guide will be reviewed as required.