



Australian Government

Government Response

Senate Economics References Committee Report—*Investing for good: the development of a capital market for the not-for-profit sector in Australia*

June 2012

INTRODUCTION

The Australian Government welcomes the report of the Senate Economics References Committee (Committee), *Investing for good: the development of a capital market for the not-for-profit sector in Australia (Investing for good)* and acknowledges the important work undertaken by the Committee.

The work of the Committee builds upon the 2010 Productivity Commission report, *Contribution of the not-for-profit sector* and assists in identifying how a capital market for the social economy sector can be developed in Australia. The Government has implemented a series of significant reforms in response to that report. In the 2011–12 Commonwealth Budget the Government announced a number of measures to drive major reforms in the not-for-profit sector and to deliver better regulation, reduce red tape and improve transparency and accountability for the sector. At the centre of these reforms is the commitment to establish a new regulator for the sector, the Australian Charities and Not-for-Profit Commission (ACNC). An implementation taskforce for the ACNC was established on 1 July 2011.

The Productivity Commission also identified inadequate access to debt capital as a potential barrier to growth for some social enterprises and not-for-profit organisations. The Committee has further examined this issue, within the context of national and international trends in social impact investing, and makes a number of constructive recommendations in relation to: establishing a social finance taskforce; intermediaries and capacity building; education of financial and corporate stakeholders; promoting social investment products; strengthening social enterprise; and developing a measurement framework.

Through the submissions and evidence received by the Committee, it is clear that there is growing interest and expertise in social investment concepts and practice across the public, private and community sectors in Australia. As acknowledged by the Committee, there are a number of initiatives being progressed across sectors that are helping to build the market and will serve as a valuable guide for future practice.

The Government notes the Committee's findings that Government can facilitate the development of the market through a number of means, such as providing a supportive environment; taking a longer term view of its development; convening and encouraging collaboration across sectors; and designing and implementing innovative policies to challenge both social economy organisations and investors to take up new financing options.

The Committee acknowledged the important 'first mover' role that the Australian Government has played through its investments in, for example, the Social Enterprise Development and Investment Funds and the National Rental Affordability Scheme. The Australian Government welcomes the Committee's comments that these initiatives are

having a catalysing impact on investors and social economy organisations and will continue to encourage the type of collaborative, longer term approach that is needed to build the social investment market.

Investing for good provides a valuable resource to help individuals and organisations across sectors to work towards the development of a capital market for social economy organisations in Australia over the medium to longer term. The Government has accepted in principle five of the 15 recommendations, notes eight recommendations and does not support two recommendations. The Government thanks the Committee, and all the contributors to the Inquiry, for their efforts and will draw on the Committee's work in its future deliberations.

GOVERNMENT RESPONSE BY RECOMMENDATION CATEGORY

Establishing a social finance taskforce

Recommendation 2.1:

That Committee recommends that the government establish a Social Finance Taskforce to assess mechanisms and options in the progress and development of a robust capital market for social economy organisations in Australia. The Taskforce should initially report to government by July 2012.

Government response**The Government supports this recommendation in principle**

The Government agrees in principle that a new or existing body should assess mechanisms and options to progress the development of a capital market for social economy organisations in Australia. The Government notes that harnessing the interests, skills and experience of parties from across the public, private and community sectors, could have a role in galvanising the nascent social investment sector in Australia. The Government acknowledges the Committee's suggestion that the Taskforce should have a high-level advisory role and focus on strategic policy, awareness raising and encouraging collaboration across sectors.

The Government notes that it is not feasible for such a body to report to Government by July 2012.

Recommendation 4.3:

The Committee recommends that the proposed Social Finance Taskforce consider the potential for philanthropic trusts and foundations to invest a percentage of their corpus in social investments options, particularly with regard to:

- whether a requirement for philanthropic foundations to invest a percentage of their corpus in mission or program related investments is appropriate in the Australian context;
- how to develop appropriate social investment vehicles for philanthropic intermediaries; and
- any other mechanisms by which the corpus of philanthropic funds could be better utilised to invest in the social economy.

Government response**The Government supports this recommendation in principle**

The Government supports the recommendation in principle and recognises the valuable role that philanthropic trusts and foundations can play in the development of a capital market for social economy organisations. While the body referred to in Recommendation 2.1 could potentially examine the asset management of trusts and foundation, the Government notes

that it has recently reviewed, and amended, its guidelines on private and public ancillary funds. As part of this review the Government formed the view that it should not be a requirement for philanthropic foundations to invest a percentage of their corpus in mission or program related investments as part of their mandatory distribution requirements.

Recommendation 4.4:

The Committee recommends that the proposed Social Finance Taskforce consider the potential for superannuation funds and other institutional investors to invest in emerging social impact investment products, with particular regard to ascertaining:

- what clarification, if any, is necessary regarding the fiduciary duties of superannuation funds and their ability to engage with social impact investment opportunities;
- how social impact investment classes can be used as a portfolio diversification tool by superannuation funds;
- whether incentives may be required in order to attract institutional investment to the sector;
- how social investment funds can be developed to attract institutional investment; and
- what possible mechanisms are available to lower the transaction costs for institutional investors seeking to engage with social investment opportunities.

Government response

The Government notes this recommendation

The Government considers that there is opportunity to further explore the potential for superannuation funds and other institutional investors to invest in emerging social impact investment products. As noted by the Committee, there have been some first movers in the superannuation industry which are making social impact investments within the existing fiduciary and investment rules. This includes the cornerstone investment of Christian Super in one of the funds established by the Social Enterprise Development and Investment Funds Manager, Foresters Community Finance.

The Government notes that superannuation trustees have fiduciary and statutory obligations to manage their fund's assets prudently and in the best interests of their members. The Government supported the recommendation in the Super System Review Panel's final report, *Review into the governance, efficiency, structure and operation of Australia's superannuation system*, that investment decisions should remain the responsibility of trustees. Trustees are able to choose from a spectrum of investment options, including emerging social impact investment products.

From 1 July 2013, MySuper, a simple, low cost superannuation product will replace existing default products. Trustees of MySuper products will be required to develop a single diversified investment strategy, in keeping with a primary duty to act in the best financial

interests of their members as measured by net investment returns and level of risk over the longer term.

The Government supports the intention to clarify and communicate the existing regulatory and policy environment for institutional investors. The body referred to in Recommendation 2.1 may have a role in this work.

Recommendation 5.2:

The Committee recommends that the proposed Social Finance Taskforce consider possible options to develop Community Development Financial Institutions in Australia, taking into account:

- the findings of the forthcoming study commissioned by the Department of Families, Housing, Community Services and Indigenous Affairs into the current regulatory and legislative environment for Community Development Financial Institutions in Australia;
- whether tax incentives should be established to encourage investment in CDFIs in Australia; and
- any other initiatives that may benefit the development of CDFIs investing in social economy organisations.

Government response

The Government notes this recommendation

The Government notes this recommendation and acknowledges that Community Development Finance Institutions (CDFIs) can play an important intermediary role in providing credit, financial services and capacity building for individuals and communities.

The report defines CDFIs in broad terms to include the full range of financial intermediary organisations with a social impact focus. As the Committee points out, CDFIs are well developed in other countries, in particular, the United States where there are over 1,000 in operation.

The current CDFI pilot being undertaken by FaHCSIA is focused on providing access to finance for individuals excluded from mainstream banking services. The pilot also provides financial literacy training to these individuals. This pilot is currently being evaluated and the results are expected in August 2012. The Government will consider this recommendation further once this evaluation is completed.

Education of financial and corporate stakeholders

Recommendation 4.5:

The Committee recommends that professional organisations such as the Australian Institute of Company Directors and investment advisory services develop materials and professional development workshops to inform the corporate sector of investment opportunities in the social economy.

Recommendation 5.1:

The Committee recommends that philanthropic and financial advisory services promote and encourage opportunities for social investment and engagement with the sector.

Recommendation 6.1:

The Committee recommends that programs and workshops relating to social impact investment be developed by investment organisations to encourage investors to engage in social investment projects and opportunities.

Government response

The Government notes recommendations 4.5, 5.1 and 6.1

The Government notes recommendations 4.5, 5.1 and 6.1 and supports the intention of these recommendations to encourage activities across the corporate and financial services sectors to raise awareness of social investment opportunities.

Promoting social investment products

Recommendation 4.1:

The Committee recommends that the Australian Taxation Office, in consultation with the Australian Charities and Not-for-Profits Commission and other relevant stakeholders, issue explanatory material for Private Ancillary Fund trustees informing them of:

- the ability of these funds to treat any discount to the market returns on social investments as benefit for the purpose of the minimum distribution requirements; and
- the necessity of including a clause regarding social investment classes in their investment strategy documents in order to invest in social investment products.

Government response

The Government supports this recommendation in principle

The Government supports this recommendation in principle and agrees that explanatory material that assists Private Ancillary Fund trustees with their decision making with regard to social investment opportunities will be a useful addition to current advice.

The Australian Taxation Office will retain responsibility for issuing guidance material where the matter relates specifically to tax. From its commencement on 1 October 2012, the ACNC will be responsible for issuing explanatory material relating to the registration and regulation of charities, as provided for under its enabling legislation. These materials will include information about investments by charities and are likely to refer to social investments.

Recommendation 4.2:

The Committee recommends that the Commissioner of Taxation, Treasury and the ONFPS work to create benchmarks and standards for financial returns on social investment classes such as debt products and social bonds, in order to help trustees and fund managers make informed investment decisions in this area.

Government response

The Government does not support this recommendation

The Government does not support this recommendation. It is premature to set benchmarks for financial returns on social investments and it is not clear whether benchmarks will provide an appropriate and useful guide. Further, benchmarks are not set by Government for other financial investments and, consistent with the Committee's advice that Government should assist the market rather than intervene to control it, it is preferable that new or existing market mechanisms (such as rating agencies and analysis on particular asset classes) should be encouraged to fulfil this role.

Recommendation 6.2:

The Committee recommends that the Departments of Treasury and Finance and Deregulation examine ways to create incentives to invest in a social bond market in Australia including the feasibility of tax exempt income returns, a government top up on coupons through cash or tax credits and the use of government guarantees.

Government response**The Government does not support this recommendation**

The Government does not support this recommendation. While the Committee notes the success that the GoodStart Consortium and the Chris O'Brien Lifehouse at Royal Prince Alfred hospital had utilising social bonds, it also notes that the uptake of social bonds in Australia has typically been limited to investors with a direct or personal connection with a specific social venture.

Before considering tax concessions, more needs to be done to understand the use of social bonds and the circumstances in which they could be a viable option for encouraging social investment.

Recommendation 6.3:

The Committee recommends that the Office for the Not-for-Profit Sector identify policy areas where social impact bonds could be applied, including intractable problems in Indigenous communities. The plausibility of creating social impact bonds in partnership with state governments should also be examined.

The Office for the Not-for-Profit Sector should work with relevant government departments and agencies and social organisations to implement a social impact bond trial.

Government response**The Government notes this recommendation**

The Government notes the emphasis given to social impact bonds during the Inquiry and is closely monitoring the social impact bond pilots in New South Wales. These pilots provide an opportunity to test the factors likely to be associated with successful social impact bonds in Australia, including the willingness and ability of service providers and investors to participate. Given social impact bonds are complex instruments; further consideration is being given to some of the potential challenges associated with their implementation. The Government also recognises that social impact bonds are only one type of social investment tool amongst a range of new and emerging products.

Strengthening social enterprise

Recommendation 8.1:

The Office for the Not-for-Profit Sector identify relevant current and future government programs, such as Enterprise Connect and the New Enterprise Incentive Scheme, that could be extended to offer specialised support for social enterprises. The programs should be extended to include support for cooperatives, employee share ownership plans and employee buyouts.

Government response

The Government notes this recommendation

The Government notes this recommendation. There are a range of programs available to provide advice and support to organisations and the Government supports efforts to meet the specific needs of social enterprises, where possible, within existing and future programs.

Recommendation 8.2:

The Department of Finance and Deregulation, Treasury and Office for the Not-for-Profit Sector should jointly conduct a review of the competitive tendering and contracting framework and examine the costs and benefits of:

- social tendering to identify a social purpose business rather than a competitive tendering process; and
- including a community/social benefit criterion in the call for and assessment of competitive tenders.

Government response

The Government notes this recommendation

The Government will consider this recommendation further. The Commonwealth Procurement Guidelines, which reflect our international trade obligations on government procurement, include a number of exemptions from mandatory procurement processes, including:

- the procurement of property or services from a business that primarily exists to provide the services of persons with a disability; and
- the procurement of property or services from a Small or Medium Enterprise with at least 50 percent Indigenous ownership.

While the Government needs to further consider the impact of contracting social purpose businesses outside of a competitive tender process, it notes that social value, community or social benefit criteria might be more appropriately considered as part of the framework for grant programs.

Within the non-discriminatory approach of the Commonwealth procurement framework, the Government will explore the feasibility of including social value in the consideration of value for money.

Developing a measurement framework

Recommendation 7.1:

The Committee recommends that the Department of the Prime Minister and Cabinet identify policy areas where results based funding is already utilised and use any relevant programs as an evidence base towards the development of a robust measurement framework for social economy organisations in Australia.

Government response

The Government supports this recommendation in principle

The Government supports this recommendation in principle and agrees that the effective measurement and reporting of social outcomes by social economy organisations is essential for building investor confidence and market transparency. The Government notes however that while result-based funding may provide some initial evidence for the development of a measurement framework, given the differences in program and contracting requirements across Government, these may have limited utility.

The Government notes that a range of approaches and tools have developed internationally for measuring and managing impact and that Recommendation 7.2 proposes the development of a measurement guide based on the evaluation framework recommended by the Productivity Commission. The Government agrees that this framework provides a useful starting point for future work in this area.

Recommendation 7.2:

The Committee recommends the Office for the Not-for-Profit Sector in the Department of the Prime Minister and Cabinet prepare a guide for social economy organisations to assist in evaluation of their performance. The guide should be based on the evaluation framework recommended by the Productivity Commission using inputs, outputs, outcomes and impacts and include Australian case studies and emerging international measurement tools.

The guide should provide social economy organisations with a number of measurement techniques as options to measure their outcomes and impacts. The committee recommends that the guide be adopted by the Council of Australian Governments and distributed to all government departments and agencies.

Government response

The Government supports this recommendation in principle

The Government supports this recommendation in principle, and as noted above, supports using the Productivity Commission's framework as a starting point for the development of a practice guide for social economy organisations. The Government considers that the

proposed guide should be developed in collaboration with social economy and social investment organisations and include a range of measurement techniques that recognises the diversity and challenges inherent in the scale and work of the social economy. The development of a guide will be considered within the context of the Office for the Not-for-Profit Sector's future work priorities.