New Zealand

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Guidelines for identifying control – responses

Overall, I'm surprised that the definition and assessment of control is considered seperately for corporations versus non market NPIs. My initial thoughts are that the considerations would be the same, and once the issue of control is determined the question of economically significant price is then addressed to determine whether they are in the market or not. I would therefore combine the definitions and tests. For example, the discussion around trusts is equally if not more applicable to non market NPIs as are most of the bullets in indicator 9.

Government control of a corporation:
Para 2 revised definition refers to "corporate policy" - then defines corporate policy as "the key financial and operating policies relating to the corporations strategic objectives..." "...as a market producer". I'd suggest substituting "corporate policy" for "key financial and operating policies relating to the corporations strategic objectives" - which in my view is a clearer and more meaningful definition.

Indicator 1 - majority voting interest. If the test to be used is control, then a majority voting interest is not necessarily required if the remaining shareholding is dispersed and uncoordinated. International accounting standards on control will likely specifically address this in an exposure draft due later this year.

Indicator 5 - golden shares. You should also address the treatment of options in this section as they are very similar in concept to golden shares. In general if the government has an option to purchase shares that is reasonably exercisable (even if it is out of the money), this option should be taken into account when considering control if its exercise tips them into having control. Again, this is where I understand International Accounting Standards are likely to be moving towards in the next ED on control. The concept of golden shares may be more conditional than options, given they may only be exercisable if a predefined set of circumstances come into play - however, whether these are a factor in considering control may rely more upon a consideration of the extent to which the powers can be exercised in the ordinary course of business as opposed to whether they have been exercised in the past or not.

Indicator 7 - I query whether this indicator is in and of itself sufficient to justify consolidating an entity without establishing any sort of ownership of the assets. Essentially, adhering to this indicator results in recording the assets of an entity within general government without in fact having any claim over those assets. I have similar concerns in relation to indicator 6.

Government control of non market NPIs:

Revised control definition "The ability to determine the general policy or programme of the NPI." I query whether this definition would work in a New Zealand context. In relation to many non market NPIs within NZ general government, there are specific legislative provisions which preclude the government from determining the general policy or programme of these institutions, and these provisions are further backed up by legislative provisions restricting the control arrangements around these institutions. These institutions are called Autonomous Crown Entities, and Independent Crown Entities in NZ legislation, and include the Broadcasting standards authority, the Police Complaints Authority, the Museum. Similar arrangements apply to other entities such as the Ombudsmen and the Office of the Controller and Auditor general. All these entities in my view should still form part of general government, however their relationship with the Crown is at the "key financial and operating policies relating to strategic objectives" end. I therefore believe that the definition used in the corporation section of your paper for control is a more apt definition here. The reason non market NPIs would generally have been set up in the first place would have been to give them an element of independence and autonomy from the Executive - therefore to refer to the general policy and programme in the control definition seems counter-intuitive to me.

I trust this email will help you in your deliberations. Happy to discuss further any of the points raised above.

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