The Jack Brockhoff Foundation is a Public Ancillary Fund which supports the amendments proposed to be made by 'Amendments to the *Public Ancillary Fund Guidelines 2011'* currently open to the public for consultation. In particular, **The Jack Brockhoff Foundation supports strongly the changes proposed to the calculation of the minimal annual distribution required of Public Ancillary Funds. Nothing prevents any PUAF distributing more than the minimum.** It is aware of other foreshadowed changes and notes with appreciation proposed changes to take into account the existence of The Australian Charities and Not for Profits Commission and to remove consequent replication of the reporting obligations of Public Ancillary Funds.

However, the Foundation will confine its further comments in this response to the proposed amendments to the minimum annual distribution rate insofar as they impact on public ancillary funds.

The Foundation is aware that Philanthropy Australia (PA) has submitted a response to the proposed changes and disagrees with PA's line with regards to the mandated minimum distribution. We acknowledge that PA has a diverse constituency and its own view on the best way to advocate on behalf of that constituency, together with a sense of power and mission to do so. We are among the unnamed and unnumbered "small minority" of an unstated number of PA members consulted by PA who do not share what we see as a naively optimistic assessment of the world investment situation and respectfully disagree with the position PA takes in opposing the amendments foreshadowed in Item 7 of Schedule 2.

We are aware that other Foundations (who are members of PA) also disagree with PA's position. It is our opinion that in this situation pure numbers of foundations alone do not tell the complete story. Weighted regard should be given to those leading players among Australia's philanthropic foundations in the membership of PA who are grateful to Government for the action which it suggests be taken to allow for needed flexibility in circumstances described as "unexpected economic conditions" as well as in settled times. We have sought expert advice from our funds managers who hold funds in accord with our investment mandates. Each of these fund managers forecasts unsettled times ahead.

The Jack Brockhoff Foundation supports the amendments because the minimum distribution guideline represents a significant improvement to the present mandated arrangements since it provides a capability to respond to current economic conditions.

When the minimum distribution rate of 4% of net assets was introduced in December 2011, the Reserve Bank interest rate was of the order of 4.5% pa. Thus, the minimum distribution rate of 4% would have appeared reasonable for a fund with a conservative investment regime at that time. Today, a 4% distribution would be much higher than the RBA target rate and out of keeping with that initial legislative intention.

We observe that to our knowledge there is at present no published average of the Reserve Bank of Australia's target for the cash rate over a previous financial year and expect that this will now be formally published.

It is the view of the Foundation that public ancillary funds which aspire to give to the community in perpetuity need to give proper regard both to the making of charitable grants to worthy eligible recipients and to the investment of their funds in such a way as to at least maintain real value of capital .

The Foundation has always given away a high proportion of its income and intends to continue to do so to projects of sufficient merit. It wishes to preserve and grow the asset base to provide long term potential of increasing granting and creating a sustainable fund. One of the Foundation's objectives is to maximize the long term, sustainable return to the philanthropic needs of the community. From initial contributions to the Foundation by Sir Jack Brockhoff of $10.8M (which have been augmented by additional contributions from deceased estates and the general public), the Foundation has to date granted approximately $89.5M, whilst over that period of time it has grown the net assets generally in line with inflation. At present the corpus stands at approximately $50M having suffered from the volatile investment markets of recent times. The proposed minimum distribution guideline will assist the Directors /Trustee to get the balance right to ensure that maximum long term income is generated for philanthropic granting out of a prudently managed asset base.

The current "simple" formula, related to distribution of asset value does not consider what income is earned on the assets. That is, the present formula is based on an imbalanced concentration upon distributing and not on the equally important matter of corpus maintenance through prudent investment. In certain circumstances, the 4% formula demands what could be savage erosion of the capital base.

We observe that when the Guidelines originally came into existence, the Foundation struggled to determine how to treat some of its pledged distributions in terms of inclusion or otherwise in the mandated percentage and that the Guidelines were not as clear on this point as they could have been. The same might be said of the articulation of the alternative methodology.

Conclusion

In the correspondence which the Chairman of the Foundation wrote to the relevant Ministers, our full views were set out. The correspondence is attached .The Foundation's aspiration to excellence in grant making is not itself addressed by the proposed amendments. However, to a large extent our views have been addressed in the pragmatic amendments proposed. For this the Foundation expresses its support and gratitude.

DATE 11 February 2016