Grant Thornton

Considerations for the Aged Care Quality and Safety Commission's proposed Financial Standards

Introduction

Recent reforms

The Department of Health and Aged Care has implemented a series of reforms in response to the recommendation of the Royal Commission into Aged Care Quality and Safety, reflecting ongoing efforts to improve the sector.

These reforms include:

- the introduction of the new Aged Care Act;
- a focus on increased consumer rights in the delivery of aged care services;
- supporting and funding increases in aged care workers' wages to recognise their skills, knowledge and experience in delivering care services to older Australians;
- strengthening aged care service providers by increasing accountability, funding and sustainability;
- improving care outcomes by guaranteeing minimum care minutes;
- stimulating investment in residential aged care and home care to ensure that older Australians can access the services they require, now and into the future;
- strengthening the Aged Care Quality and Safety Commission to ensure aged care service providers continue to improve and enhance their services to consumers; and
- introducing the Inspector-General of Aged Care to monitor, review, and report on the aged care system, call out significant and systemic issues, and recommend change. This includes oversight of complaints management by government agencies, approved providers and other aged care bodies funded or regulated by the Australin Government.

To support these reforms, new Financial and Prudential Standards are proposed. These proposed standards are set out in the Aged Care Quality and Safety's advisory, "The new Financial and Prudential Standards" and discussed in the "Understanding the new Financial and Prudential Standards" webinar.

It is noted that for the first time, home care providers will be required to comply with the Financial and Prudential Standards. Residential Care Providers who don't hold refundable accommodation deposits will also need to comply with the standard. The introduction of the Support at Home program alongside the proposed Financial and Prudential Standards adds an additional layer of complexity and concern for home care providers.

This paper sets out the concerns arising from the introduction of the proposed prudential regulations. We have provided specific feedback in order to ensure that the consequential impact of the proposed changes, in particular the impact of liquidity changes, are understood and the limitations of specific concepts referenced in the proposed standard and associated documents are appropriately communicated with, where appropriate, suggestions for alternative approaches that may be considered which may achieve the desired objective. Our feedback is described in three parts:

- Part A addresses the technical accounting concepts inherent in the proposed Standard;
- Part B address the Commercial aspects of the Proposed Standards; and

By presenting our analysis in two parts, we recognise that each will address the same concerns from different perspectives. We present this for completeness and acknowledge the arguments contained herein will intersect and potentially crossover by presenting the analysis in this way.

We suggest the government amend its approach to financial and prudential standards to require aged care providers to prepare and publish a three-year cash flow forecast and five-year capital plan. This will demonstrate the ongoing viability and ability to meet operational and capital commitments.

What can providers do?

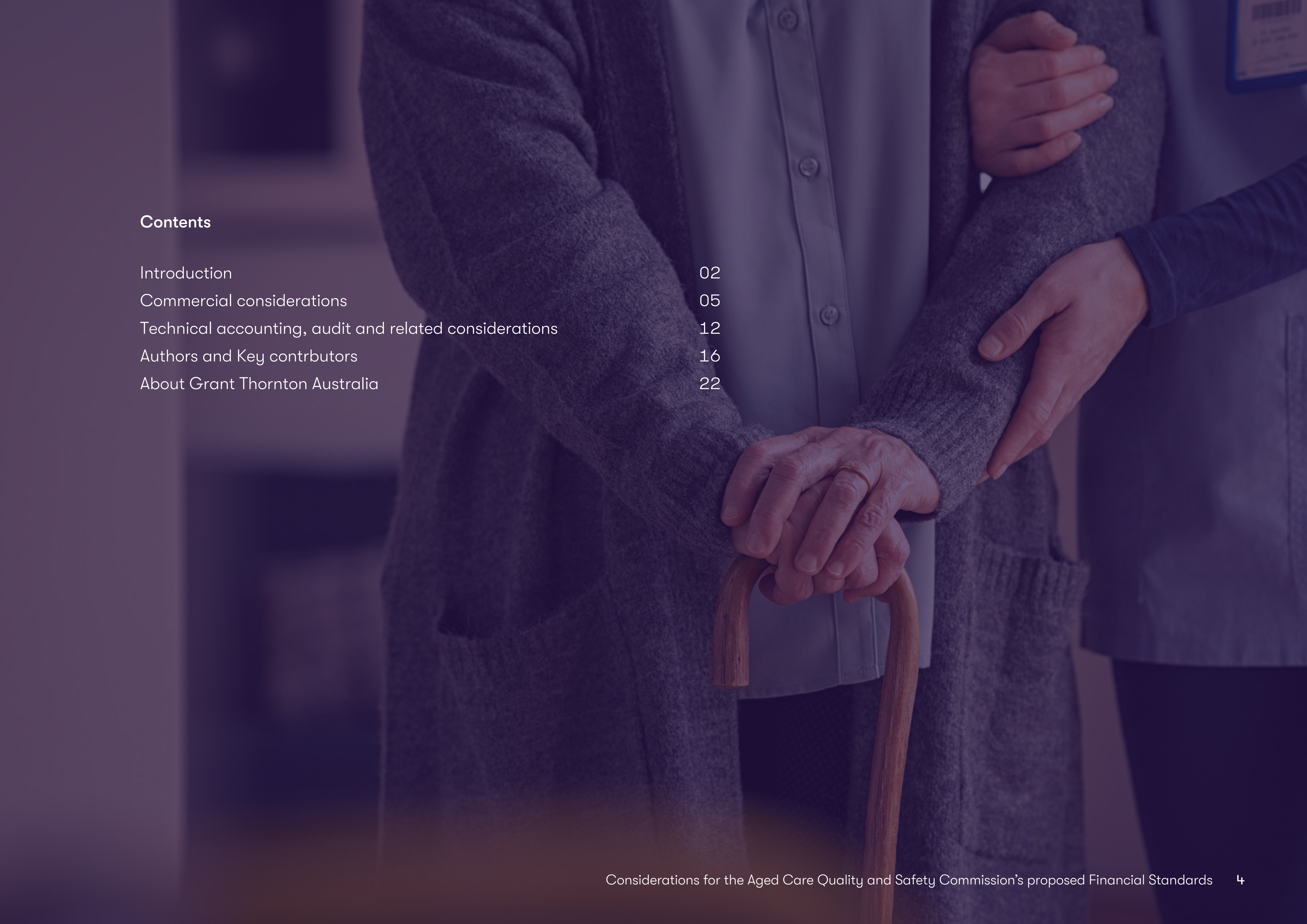
Aged care providers need to consider how they prepare for the introduction of the proposed Financial and Prudential Standards, whether in the current form or an altered version. In particular, providers need to:

- update their medium and long-term budgets and cashflow forecasts to assess and report on the impact of the standards.
- Undertake sensitivity analysis on the impacts of the standards on services and service delivery.
- Re-assess future investments to ensure that feasibility remains strong and that there is sufficient funding under the new arrangement to fund them.
- Consider the impact on the solvency of the business in the event that the proposed standards are implemented resulting in continuing deficits in working capital to meet operational needs to deliver services.
- Review the strategic plan and adapt objectives and initiatives to enable the business to meet future commitments.
- Consult with bankers on the impacts of the proposed standards.
- Seek support where uncertainty remains regarding the future of the business.

The opportunity remains for providers who are significantly impacted to engage with peak bodies, including Ageing Australia and directly to Minsters Wells and Butler to review and amend the standards.

Darrell Price
National Head of Health & Aged Care

Owen Carew
Partner – Audit & Assurance



Contents

Commercial considerations

The purpose of the proposed Financial and Prudential Standards [1]

Registered providers must comply with the Financial and Prudential Standards that apply to them as a condition of their registration. The Standards make sure that:

1. a governing body manages finances responsibly and considers how its decisions will affect the wellbeing of older people receiving Australian Government-funded aged care;
2. registered providers have enough funds to:
   i. meet the conditions of their registration;
   ii. meet their financial obligations, bills, refunds and debts when they're due;
   iii. deliver safe and quality aged care services consistently;
3. providers are prepared to manage periods of financial stress through demonstrating that they comply with their MLA;
4. providers protect the continuity of care of older Australians, by making sure financial or operational challenges don't disrupt the quality or delivery of services they provide to older people;
5. providers protect refundable deposit balances by making sure they properly manage these funds and hold them securely; and
6. financial risks to the Australian Government are minimised, including claims on the Accommodation Payment Guarantee Scheme.

1 Exposure Draft on Aged Care Financial and Prudential Standards 2025.

A summary of the proposed prudential regulations (calculations of minimum liquidity)

It is acknowledged that aged care providers need to manage their liquidity in order to meet their operational obligations to employees and suppliers, their commitment to consumers who have paid a refundable accommodation deposit (RAD), and for capital to maintain their assets to a standards acceptable for residential and home care.

Aged care providers' financial performance and experience throughout and subsequent to the COVID-19 pandemic is evidence that the vast majority are well able to meet financial and prudential performance obligations that enable them to be sustainable over time.

With this in mind, the Department is seeking to strengthen liquidity management by introducing new financial and prudential standards.

Impacts on aged care providers

Aged care providers are not a homogenous group. There is one publicly listed company (Regis HealthCare, Revenue $1,014m in 2024), many for-profits and not-for-profits, and many that provide services other than aged care. In the not-for-profit space, may providers deliver government funded community programs under grants. In for-profit businesses, several are primarily retirement living specialists who provide aged care as a service to their residents (AVEO, Retire Australia etc.) There are also franchises in the Home Care and Commonwealth Home Supports programs (soon to be Support at Home), although many franchisees also provide NDIS services (Right at Home, Just Better Care, Nurse Next Door, and others). Some providers have turnovers of less than $1m.

The application of the proposed Financial and Prudential Standards will create significant inequities between providers depending on their business model, the split between aged care and non-aged care services, other prudential requirements arising from Grants, and their relative size. Some of these inequities can arise from prudential requirements competing with the proposed standards, for example where prepaid grant income is to be held for the delivery of future services.

These inequities could flow through to care recipients in the form of diminished and reduced services, and reduced quality. They could result in the closure of aged care providers. These inequities can reduce consumer choice.

Future investments for RACFs and other services (including non-aged care services) that planned to utilise this cash for start-up capital will not proceed. This will have a negative impact on growth plans for aged care and government funded community services.

When addressing the going concern of an organisation, the Directors are required to make a declaration as to whether the company can meet its debts as and when they fall due. Directors will have to make a determination if, in applying the proposed standards, the company has a diminished ability or inability to do so. The declaration is generally in the form of "there are reasonable grounds to believe that the Company will be able to pay its debts as and when they become due and payable". An auditor will make an independent assessment of the company's ability to pay its debts as and when they fall due, and comment on this as necessary. The proposed segregation of substantial monies from working capital resources, may well render an entity unable to meet is debts, with the resulting consequences.

Implications for banking arrangements of providers.

The financing relationship between banks and their clients is typically formalised in a finance document known as a Facility Agreement or Letter of Offer. These documents usually outline facility limits, covenants, reporting requirements, and events of default and review. In this case we are referring to banking clients that are aged care providers and who may or may not deliver non-aged care services. For aged care clients, these terms often include liquidity ratios, financial performance, and operational tests such as occupancy, Interest Coverage, and Loan to Value tests, along with conditions related to governance, management, clinical, and safety outcomes. Additionally, these documents specify the securities that the bank holds over the business to secure its loan arrangements.

Working capital

The requirement to restrict cash, as contemplated by the proposed Financial and Prudential Standards, may limit the availability of cash for other purposes, including operational requirements and maintenance. This will have a detrimental effect on the financial and operational performance of providers, and reduce their ability to attract bank finance and investment capital. The proposed changes may ultimately have the unintended consequence of reducing service availability and quality, contradicting the stated purpose and intent of the proposed Financial and Prudential Standards.

For providers who deliver services other than aged care, working capital that is required to deliver non-aged care programs will also be quarantined, affecting the ability to meet service obligations under their contracts with governments and government agencies.

From time to time, aged care providers invest in projects that enhance their businesses, for example investing in improved technological capability or refurbishing assets. This leads to 'lumpy' cash flows, and potentially significantly increased cash expenses during the course of a project. **These cash outflows are captured in the proposed standard and will result in inequities for those providers seeking to improve their services to consumers.**

Investing

The requirement to restrict cash, as contemplated by the proposed Financial and Prudential Standards, will directly impact the availability of working capital needed to fund ongoing operations including wages, consumables, and maintenance. Furthermore, it reduces the cash available to contribute to any pending or future development or capital works activities by the operator. This cash contribution, or 'equity' in a development or construction project is a key part of the capital financing stack alongside bank debt. **Any reduction in the ability to contribute or apply equity may reduce the feasibility and bankability of a project.**

Security

It is typical under the Financing Documents between a bank and an operator that the bank will hold a General Security Agreement (GSA) as part of its security suite. Banks use a GSA to ensure collateral is legally enforceable. A GSA includes a floating charge or security that covers a pool of assets which may fluctuate in value over time (e.g., cash, debtors, or work in progress) and typically captures both 'present and after-acquired' assets. It is our view that cash and cash equivalents, including cash proposed to be restricted under the proposed Financial and Prudential Standards, will be captured under this GSA. In the event of an actionable breach or business failure, the banks and their nominees have first rights to the cash to extinguish their liabilities (subject to Corporations Act priorities). Only after the GSA holder's debt is satisfied will any balance of cash or assets be available for unsecured creditors in an administration, receivership, or liquidation. Such unsecured creditors may include the Government in relation to any claims met under the Accommodation Payment Guarantee Scheme.

The proposed Financial and Prudential Standards therefore present challenges in two areas. Firstly, they do not provide adequate assurance that sufficient funds are available to meet the repayment of RADs in an insolvency scenario, as such segregated funds would likely only go to the GSA holder and not those entitled to be repaid the RADs. Furthermore, it does not promote the repayment to the Government of monies paid out under the Accommodation Payment Guarantee Scheme as such a claim is an unsecured claim, subordinate to those of GSA holders (and likely behind employee claims as well).

Secondly, by segregating substantial monies and precluding them from being available for working capital purposes (or meeting RAD redemptions), the proposed Financial and Prudential Standards may inadvertently contribute to the failure of Aged Care Operators. **This in turn significantly increases the exposure of the Australian Government to potential loss under the Accommodation Payment Guarantee Scheme.**

Valuations

Residential Aged Care Facilities are marketable and saleable assets with a market-derived value. This market value has generally increased in the last 12 months, reflecting improved viability and greater regulatory certainty for banks and investors. There are several methods of valuing this asset class, including the market approach, the income approach, cost approach, and discounted cash flow approach. These valuation approaches are predominantly derived from a multiple of profitability and will discount any unavailable or restricted cash or cash equivalents. Noting the proposed restricted cash balance will deplete the available cash for working capital, maintenance, and capital expenses, it will effectively decrease profitability and reduce valuations. Accordingly, the proposed Financial and Prudential Standards will potentially reduce the values of existing assets and impair the feasibility of future development activity. **Negative movements in asset value will likely reduce the bankability of the sector and lead to an elevated risk of business failure.**

Impact on solvency of providers, sustainability and consequences for consumer and government

As discussed, the preservation or segregation of significant cash resources under the proposed Financial and Prudential Standards will quarantine such resources outside of a provider's working capital, and thereby adversely impact a providers' ability to fund its ordinary operations and ultimately its solvency. This may extend to such resources not being available to meet the redemption of RADs in the ordinary course of business.

Furthermore, such segregation of monies will also impact future investments in (and refurbishment or replacement of) RACFs and services, both aged care and non-aged care. This contemplates both the segregation of a provider's own funds as well as the reduced availability of finance and equity. This could critically impact not just the growth and renewal of the sector, but its overall sustainability, as well as the cost, availability and standard of services for consumers in the future.

We consulted with our restructuring advisors regarding the consequences of the proposed Financial and Prudential Standards and its impacts on Aged Care providers, as described. **Their advice is that the risk to the sector will be significant, with a substantial increase in the likelihood of business failure in the aged care sector.**

With an increased prevalence of provider failures there will be a compounding impact on valuations, lending and investment with the potential sustained contraction or reduction of providers and facilities. Again, this impacts the growth and renewal of the sector, its overall sustainability and potentially the cost, availability and standard of services for consumers in the future.

Critically, an increase in insolvencies and appointments will likely see more calls on the Accommodation Payment Guarantee Scheme. As explained earlier, the segregation of monies may not result in an increase in funds being available to repay RAD obligations in the event of an insolvency, with secured creditors having priority to such funds while RAD claimants and the Government (in relation to monies paid out under the Accommodation Payment Guarantee Scheme) considered unsecured creditors only, in any liquidation of a provider.

Prior to and concurrent with an increase in aged care provider closures, our restructuring specialists anticipate a **likely increase in provider's consulting with the Department seeking a reprieve from the Standards. Such relief would be sought to assist with restructuring efforts to preserve distressed aged care providers**.

Interestingly, an analysis of the impact of the COVID-19 pandemic and recent corporate aged care failures indicate that liquidity was not the principal cause. Financial distress that occurred in the COVID-19 pandemic was largely a result from the clinical impacts of the disease – where residents fatalities occurred, staff were unavailable to conduct their normal duties, and occupancy fell. The vast majority of providers remained liquid throughout the pandemic. In the case of failures of Berrington, Earl Haven and St George, the financial distress resulted from structural issues impacting financial performance. The imposition of the proposed standards would not have prevented their closure, nor likely improved the return to consumers in relation to RADs.

Comments from clients

Home care services are on such tight margins that accumulating the cash required to hold separately from working capital will be almost impossible for most providers.

Many providers, especially not-for-profit organisations, have significant revenue and expenses from non-aged care services and community programs. These include the running of hospitals (e.g. Uniting Care Queensland and Catholic Health), social justice, interpreter services, Family and Relationship counselling, Alcohol and Other Drugs, Domestic and Family Violence, and homelessness. The majority of these services are funded by grants and delivered at breakeven, and need to be acquitted to the Grantor (usually a State or Federal agency). **The expenses of these non-aged care services will be caught under the proposed standards and will result in significant cash being held that does not relate to aged care. Further it will not be accessible for the purpose for which it was granted, contracted and intended.**

Providers with revenue paid in advance for government funded programs already have significant cash balances preserved to meet future service obligations. **This cash will not be available for the proposed financial and prudential standards, limiting the ability of these providers to meet the standards. Working capital and cashflow will be significantly and potentially fatally compromised.**

With the introduction of Consumer Directed Care for in home care services, many retirement village operators have become approved providers of these programs. In some cases, the very large retirement living operators (AVEO, LDK, RetireAustralia, Bluecare, Keyton, and others) provide residential aged care and/or home care as a service to the residents of their villages. **It is not their main focus, nor a significant source of income. As approved providers they will be impacted by the standards, significantly impacting their cashflows and investment pipelines.**

The transition from HCP and CHSP to Support at Home, including the shift from payments in advance to payments in arrears, will have a **significant impact on aged care providers' cash flow. Many believe that they will experience significant negative cash flows for several months while they transition. The additional impost of the proposed Financial and Prudential Standards are likely to see many of the providers become insolvent and close their businesses.**

Additionally, franchisees have to pay their franchise fees in addition to the normal running costs of a traditional home care, CHSP business. **These costs will be incorporated into the liquidity requirements and create a substantial and inequitable difference between franchisees and their non franchised peers**.

Technical accounting, audit and related considerations

The objective of the Standard

The statement is made that the objective of the proposed Standard is to improve liquidity management, however the lack of accessibility of investments held as the minimum liquidity amount (MLA) indicates that the purpose is not to provide liquidity to the entity (as the provider cannot access the funds at any point – refer 'liquidity requirement' below), but instead to provide a stop-loss to residents in the instance of liquidation of the entity – that is, excess capital.

We undertook an analysis of recent insolvencies and our Restructuring Advisory team have concluded that most recent insolvencies are not due to a lack of capital, but management-related failures

Concerns with drafting and definitions

The Minimum Liquidity Amount

The Department is seeking to strengthen liquidity management by introducing new financial and prudential standards. In summary, the proposed standard requires providers of the services (defined in Section 7 of the proposed standard) maintain an MLA.

The calculation of the MLA is defined in paragraph 11(3) and includes reference to:

i. *the amount equal to 35% of the provider's cash expenses for the previous quarter' [emphasis added]*

Paragraph 11(5) states:

> *A registered provider's cash expenses are to be calculated for the purposes of this section in accordance with accounting standards in force at the time the determination under subsection (1) is made. This section has effect whether the accounting standard would otherwise apply to the provider.*

'Accounting standards' is defined in the proposed standard as having the same meaning as in the Corporations Act 2001 (Cth) (CA2001). The CA2001 defines an accounting standard as one issued by the Australian Accounting Standards Board.

The AASB has not issued any accounting standard which defines 'cash expenses' and, as a result, the definition may not be valid.

If a general definition of 'cash expenses' were to be adopted (i.e. expenses which result in an outflow of cash in the period), this will have the following impacts:

- The amount required as MLA will lag actual expenses incurred. This will be caused by the nature of the working capital cycle – where expenses are incurred and, excluding employee benefits, are typically settled on delayed credit terms.
- The amount recognised is subject to manipulation. This can be caused by managing when significant cash outflows will be made – for instance, by deferred or accelerating payments to manage the calculated MLA.
- Liquidity calculations will prevent investment in amounts that are non-capital when Australian Accounting Standards are applied, but otherwise improve care and are 'investment' in nature. In particular, implementations of SaaS products with significant up-front cost will result in increased liquidity requirements in the period subsequent to settlement.
- Liquidity calculations will be made based on cash outflows already incurred, rather than cash outflows expected to be incurred. While a retrospective calculation may provide guidance as to expectations of cash requirements in the subsequent period, without an ability to 'normalise' calculations matters such as seasonality of labour, investment in operations or infrequent significant expenses (e.g. compliance-related fees including audit fees, tax preparation, etc.) the proposed standard will require that an entity accumulate 110 per cent of any amount to ensure that the amount can be settled (in the quarter of payment) and then 10 per cent thereof subsequently included in the MLA for the following period.

As a result, we recommend that the MLA be amended such that:

- It be defined by reference to expected cash outflows for the following quarter;
- That expected cash outflows be defined by reference to management's cash flow budget; and
- That the Written Liquidity Management Strategy require management to prepare an annual cash flow budget which is monitored and maintained on at least a quarterly basis, such that the budget is prepared prior to the commencement of the budgeted period.

Written Liquidity Management Strategy

The Written Liquidity Management Strategy (WLMS) is defined in section 13 as requiring the inclusion of 'the provider's MLA'. The MLA is then defined as calculated using the inputs in paragraph 11(3) as an amount calculated using the amounts as at the end of the preceding quarter.

This approach would require that the provider consistently update its WLMS with an amount that changes quarterly. The Australian Institute of Company Directors defines a strategic plan as "a document setting out the organisation's aspirations and how it will achieve them" – by nature, a strategy is an item that is not updated regularly but provides an overarching goal.

It would therefore not be appropriate to amend the WLMS on a quarterly basis, but instead require that the method of calculation be described in the WLMS.

In our view, the proposed inclusion of the MLA within the WLMS introduces additional compliance requirements, which may have implications for governance and resource allocation.

Our alternate approach

Aged care providers should prepare and publish a three-way cash flow forecast annually. This should cover three years, forecasting alongside that each provider should prepare and publish a five-year capital forecast.

Implications of Minimum Liquidity Amount and Liquidity calculator

Ring-fencing inputs to liquidity requirement

The MLA is calculated at the provider level. It is not unusual for providers to include operations unrelated to the provision of services defined by the proposed standard within the legal entity providing those services and incur expenses as it relates to these.

It may be a component of the intent of the proposed standard to encourage providers to manage risk by transferring operations as it relates to non-provider activities to another entity outside of the provider group. Such transfers will be costly, including the receipt of advice as it relates to these transfers and the specific costs of transfer (for instance, stamp duties).

Conversely, the calculation as proposed creates an economic incentive to transfer cash outflows from a provider to a non-provider – for instance, management and administrative services – which would have the impact of reducing cash outflows of the provider, thereby reducing both the MLA and the level of capital available as a stop-loss.

As a result, there is potential for the MLA to be influenced by structural adjustments, which may impact its effectiveness.

We therefore recommend that the calculation of the MLA be amended to include a basis of calculation limited to those outflows that are directly related to the provision of the services of the provider.

Sources of liquidity

In its purpose statement, the proposed standard includes the statement "The new Standards mean that older people can be confident that their provider is managing finances responsibly and considering how decisions will impact their wellbeing. Good financial management is important for providers to continue to deliver safe, high-quality care."

We interpret the intention of the MLA to not reflect the ability of residents to recover their deposits upon liquidation of the provider, but instead to have confidence that the provider will have sufficient capital on-hand to make payments in the ordinary course of business – for instance, if a resident transfers to another facility.

The MLA is defined within the proposed standard. The defined restrictions in place as it relates to the MLA prevent access when such an event occurs and working capital is not sufficient to meet these needs.

The MLA will require some entities to obtain access to additional capital to meet this requirement but permits the WLMS to define what the sources of liquidity are. Hypothetically, a source of liquidity may include lines of credit from a financier (whether called or not called upon), though excluded from permitted sources by the calculator.

The calculation only permits the use of cash and other investments held as being a source of liquidity.

Clarification of the types of sources of capital available may be beneficial to users of the proposed standard and FAQ.

Borrowings

The FAQ identifies that actual cash borrowings may be utilised to meet the MLA. As the MLA is not legally permitted to be accessed, it is, by design, only accessible on liquidation or administration. On liquidation, an order of securitisation is considered when settling the debts of the entity in liquidation. Typically, secured debts are settled first, with other debts subordinated to these secured debts. It is normal that debt be secured by a fixed or floating charge over the assets of an organisation; it therefore follows that, in liquidation (being prima facie the only instance that the MLA may be accessed) any amount of MLA funded by debt will first be used to settle the debt, negating the benefit of the MLA to the residents.

Liquidity calculator for registered providers in the aged care sector

Inputs to calculator

We note that the proposed standard includes reference to a specific situation to which the provider must apply accounting standards. The proposed standard does not include reference to the liquidity calculator for registered providers in the aged care sector. The quarterly reporting therefore does not have a requirement to comply with accounting standards, and as such the information value of this quarterly reporting will therefore be reduced.

Inefficiencies in capital structures

As proposed, the liquidity calculator includes specific adjustments to include 'cash expenses' as defined by the Department (noting that these are not defined in accounting standards). These cash expenses include an interest charge for leases that are recognised as a right of use asset and lease liability when applying AASB 16 Leases. It does not include the principal component of AASB 16 Leases.

This results in an incentive for providers to dispose of property in a sale and leaseback transaction in order to make the value of the property available for investment in order to meet the minimal liquidity amount. By entering into such a transaction, the provider has increased the risk to residents that it will not be able to meet its obligations as and when they fall due by increasing the gearing of the provider, resulting in an outcome that is contrary to that desired.

Further, we note that the liquidity calculator provided includes a line titled 'Rent – Not captured by AASB 16'. All leases are within the scope of AASB 16, even when they do not result in the recognition of a lease liability and right of use asset pair. As a result, there is a drafting error in the calculator.

Consequential impacts

In reviewing the various documents provided for feedback, we have identified several consequences that may be unintended. Broadly, these relate to liquidity, loss of value, and reductions in investment in the sector.

Cost of capital & impact on valuations

The requirement that additional capital liquidity be available will impact the cost of capital for entities. The 'cost of capital' is a measure used to describe the required return for investors – where the required return is higher, this results in a reduced value outcome for the same set of cashflows.

Simplistically, if a company produces $1,000 in perpetuity, and has a cost of capital of 10 per cent, it is nominally valued at $10,000. Where that cost of capital increases to 12.50 per cent, it is nominally valued at $8,000.

Where an operation is made more capital intensive – for instance, due to minimum liquidity requirements – this impacts valuations of the underlying business in a negative manner and limits the ability for investors to obtain access to additional capital. Conversely, the ability to generate profits from capital deployed is reduced – while investors may require a return of the above 10 per cent or 12.50 per cent, funds held for liquidity purposes may generate a return of only 5 per cent (if held in deposits) or, as an example, 8 per cent if held in equities.

The profits generated from the investments held are therefore not sufficient to meet the demand for return from investors, negatively impacting value.

This negative impact on value has the following potential ramifications:

- It may manifest in additional risk premiums being assigned by providers of capital (e.g. banks or other financiers) resulting in additional interest being incurred. This is on the basis that debt is generally priced as base rate (e.g. the interbank swap yield) plus a borrower-specific risk margin. Entities that are higher risk incur a higher risk margin, resulting in additional interest charges.
- It is presumed that investors will invest capital in a method that is most efficient with regards to its use. Efficient capital use is those uses of capital that result in the greatest returns. By requiring additional capital investment for dollar returned to investors, the proposed model will result in a reduction of capital investment into the aged care industry which we note may be contrary to the desired strategic goals.

Use of investments held to meet minimum liquidity amounts for liquidity purposes

The introduction of the MLA requires that the provider holds investments that are equal to the MLA at all times. These amounts are therefore not available as a source of liquidity to providers, as a breach of law will occur should the amounts held for the purpose of meeting the MLA threshold for the entity.

While the Department may be able to provide relief, in general terms, legislation does not permit retrospective relief to be provided after a breach has occurred. As a result, if directors of an entity utilise the investments held for MLA purposes as a source of emergency funding, the directors will have breached their obligations under the *Corporations Act 2001* (Cth) (CA2001) to ensure that the entity they are director of complies with all laws and regulations.

While the department may choose to not undertake enforcement action in this instance, the entity will still be in breach of the law and it is generally not within the power of a department to 'permit' a breach retrospectively. Such a breach, if identified by the auditor of a company who has been appointed pursuant to the CA2001, will be required to be reported to ASIC. As regulator of companies generally, ASIC may elect to undertake enforcement actions. It may not be in the control of the Department to prevent ASIC from enforcing the broader compliance obligations of the directors in this instance.

Solvency of entities

Upon adoption of the proposed prudential standard

CA2001 s347A requires that directors of a company determine whether a company is solvent and to cease operations if the company is determined to have become insolvent. A company is insolvent if it is not able to pay its debts as and when they fall due (CA2001 s95A).

The MLA calculated is required to be held and restricted from the general use of a provider. In this instance, the amount of working capital held to remain solvent is increased – the provider is not legally permitted to access the capital and doing so will indicate that the provider insolvent – notwithstanding that the Department may elect to not enforce. Compliance with CA2001 cannot presume non-enforcement.

Ongoing solvency

The purpose of 'ensuring sufficient available liquidity as to enable the provider to meet its obligations' is therefore not met and could lead to insolvency.

A company will be required to maintain working capital sufficient to meet its cash outflow forecasts in addition to the MLA, resulting in significant impost on the company.

Impact on government

Increased demand on the Accommodation Payment Guarantee Scheme

As highlighted in the 'Sources of liquidity' and 'Cost of capital & impact on valuations' sections of this document, the MLAs will generally not be available for distribution to residents and will first be utilised to settle bank debts. Coupled with an expected reduction in the value of entities operating in this space, economically distressed entities are less likely to be able to recoup sufficient value on disposal to settle their obligations to residents, resulting in residents accessing the Accommodation Payment Guarantee Scheme.

We understand this is contrary to the desired outcome.

Increased demand on department resources

In the FAQ, the Department suggests they will provide specific advice with a goal to ensuring providers are able to meet the MLA requirements. This will result in significant additional interaction with providers and will require the Department to recruit individuals with specific knowledge to meet the expected demand prior to the standards becoming applicable. Concerns are not defined in the prudential standards.

Assurance

There is increasing reliance on audit and assurance professionals to 'audit' certain elements of information – for instance, reports regarding the number of care hours provided in a facility – without engagement with the assurance providers. Certain information, by its nature, is not assurable without significant capital investment by providers. Certain other information, such as quarterly information, is not assurable without significant additional cost.

We recommend that should the Department seek to make liquidity reporting subject to assurance, engagement with assurance practitioners be undertaken to understand the practical limitations inherent in this.

Authors

Owen Carew
Partner – Audit & Assurance
Melbourne
owen.carew@au.gt.com
+61 8 8372 6529

Owen is a technical accounting specialist with expertise in Australian and international financial reporting standards, helping clients navigate complex accounting issues with clarity and confidence. As head of Grant Thornton Australia's IFRS team and a member of the global IFRS Technical Experts Group, he brings local insight and international perspective to help mitigate financial reporting risk.

Connect with me

Darrell Price
Principal & National Head of Health & Aged Care
Brisbane
Darrell.price@au.gt.com
+61 7 3222 0387

Darrell brings over 40 years of experience across health, aged care, government and professional services, with a strong track record in leading transformation, service redesign and commercialisation. He is known for driving strategic change through effective engagement, particularly in complex, multi-stakeholder environments.

Connect with me

Key contributors from our Grant Thornton team

Audit & Assurance

Craig Philp
Partner – Audit & Assurance
Brisbane
Craig.Philp@au.gt.com
+61 7 3222 0363

Bhavesh Narsey
Partner – Audit & Assurance & National Head of Not for Profit
Sydney
Bhavesh.Narsey@au.gt.com
+61 2 9286 5447

Pooja Narendra
Director – Audit & Assurance
Sydney
pooja.narendra@au.gt.com
+61 2 9286 5535

Adam Pitts
Partner – Audit & Assurance
Melbourne
Adam.Pitts@au.gt.com
+61 3 8663 6186

Costa Nomikouidis
Senior Manager – Audit & Assurance
Melbourne
Costa.Nomikoudis@au.gt.com
+61 3 8663 6205

Owen Carew
Partner – Audit & Assurance
Adelaide
owen.carew@au.gt.com
+61 8 8372 6529

Sean Burton
Director – Audit & Assurance
Adelaide
Sean.Burton@au.gt.com
+61 8 8372 6618

Bronwyn Wundersitz
Partner – Audit & Assurance
Adelaide
bronwyn.wundersitz@au.gt.com
+61 8 8372 6529

Brooke Burgess
Director – Audit & Assurance
Perth
brooke.burgess@au.gt.com
+61 8 9480 2163

Carina Becker
Partner – Audit & Assurance
Perth
Carina.Becker@au.gt.com
+61 8 9480 2187

Andrew Cornes
Partner, Audit & Assurance
Cairns
andrew.cornes@au.gt.com
+61 7 4046 8803

Helen Wilkes
Partner – Audit & Assurance
Cairns
helen.wilkes@au.gt.com
+61 7 4046 8809

Key contributors from our Grant Thornton team

Restructuring Advisory

Michael McCann
Partner – Restructuring Advisory
Brisbane
Michael.mccann@au.gt.com
+61 7 3222 0327

Phil Campbell-Wilson
Partner – Restructuring Advisory
Sydney
philip.campbell-wilson@au.gt.com
+61 2 8297 2501

Andrew Hewitt
Partner & Head of Financial Advisory -
Melbourne
andrew.hewitt@au.gt.com
+61 3 8663 6003

Anthony Jonsson
Partner – Restructuring Advisory
Cairns
Tony.Jonsson@au.gt.com
+61 7 4046 8850

David Hodgson
Partner – Restructuring Advisory
Perth
david.hodgson@au.gt.com
+61 8 9480 2184

Jacob Grant
Senior Manager – Restructuring Advisory
Brisbane
Jacob.Grant@au.gt.com
+61 7 3222 0408

John McInerney
Partner – Restructuring Advisory
Sydney
john.mcinerney@au.gt.com
+61 2 8297 2504

Carolyn Bamberry
Director – Restructuring Advisory
Melbourne
carolyn.bamberry@au.gt.com
+61 3 8663 6194

Matt Mullen
Principal – Restructuring Advisory
Cairns
Matt.mullen@au.gt.com
+61 7 4046 8867

Our valuations team

Andrea de Cian
Partner – Corporate Finance
Sydney
andrea.decian@au.gt.com
+61 2 8297 2554

Jannaya James
Partner – Corporate Finance
Melbourne
jannaya.james@au.gt.com
+61 3 8663 6376

Key contributors from our Grant Thornton team

Other members of our Health & Aged Care Team

David Mullins
Partner – Private Business Tax & Advisory
Adelaide
david.mullins@au.gt.com
+61 8 8372 6514

David Gibson
Partner – Private Business Tax & Advisory
Brisbane
david.gibson@au.gt.com
+61 7 3222 0236

Adam Fisher
Partner – Private Business Tax & Advisory
Adelaide
adam.fisher@au.gt.com
+61 8 8372 6578

Ashley MIller
Partner – Transactions Advisory
Melbourne
ashley.miller@au.gt.com
+61 3 8663 6999

Craig Lawson
Partner – Private Business Tax & Advisory
Melbourne
craig.lawson@au.gt.com
+61 3 8320 2172

Gail Curtis
Partner – Private Business Tax & Advisory
Perth
gail.curtis@au.gt.com
+61 8 9480 2011

Lili Song
Partner – Private Business Tax & Advisory
Sydney
lili.song@au.gt.com
+61 2 8297 2786

Mitesh Ramji
Partner – Corporate Finance
Perth
mitesh.ramji@au.gt.com
+61 8 9480 2110

Your business deserves remarkable support

At Grant Thornton, care is just as important as capability – and your experience is as important as the outcome. By caring for our people, clients and communities we provide a strikingly different experience, built on our values, with client service at the forefront.

Grant Thornton Australia is a member firm of the Grant Thornton global network – one of the world's leading accounting and consulting firms. Our global structure spans every major business region in the world.

We have the scale to meet your changing needs – while retaining the agility required to keep you one step ahead. In Australia, we now have over 1,500+ people across five states, each with the freedom to drive change.

With our values at the core, we seek out diverse perspectives and challenge established practice when necessary to deliver positive progress for your business. Our commitment to our brand promise, Reach for Remarkable, is delivered through proven expertise, principled execution, and personalised experience. No matter your industry, business lifecycle stage, market or growth plans, our experienced professionals are dedicated to achieving the best outcome for you and your stakeholders.

PEOPLE NATIONALLY

1,500+

PEOPLE GLOBALLY

68,000+

NATIONAL REVENUE (AUD)

$370m

GLOBAL REVENUE (USD)

$7.2b

PARTNERS NATIONALLY

172

OFFICES GLOBALLY

750+

OFFICES NATIONWIDE

6

MARKETS

145+

The terms we use
Language is a powerful tool. No single set of definitions can describe how every person experiences life, or how they define themselves. We acknowledge the diversity of self-identity and intersectionality, particularly within gender, culture, sexual orientation, disability and First Nations language groups. It is always our intention to be inclusive and respectful and we acknowledge that not everyone will identify with the terms we have chosen.

Offices

Tarndanya / Adelaide
Grant Thornton House
Level 3, 170 Frome Street
Adelaide SA 5000
T +61 8 8372 6666

Gimuy / Cairns
Cairns Corporate Tower
Level 13, 15 Lake Street
Cairns QLD 4870
T +61 7 4046 8888

Boorloo / Perth
Central Park, Level 43,
152–158 St Georges Terrace
Perth WA 6000
T +61 8 9480 2000

Meeanjin / Brisbane
Level 18, 145 Ann Street
Brisbane QLD 4000
T +61 7 3222 0200

Naarm / Melbourne
Collins Square
Tower 5, 727 Collins Street
Melbourne VIC 3000
T +61 3 8320 2222

Warrang / Sydney
Level 26, Grosvenor Place
225 George Street
Sydney NSW 2000
T +61 2 8297 2400

Grant Thornton

grantthornton.com.au