QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION

FACT SHEET

COMPLYING WITH MINIMUM FINANCIAL REQUIREMENTS – COMMON PROBLEMS

BACKGROUND AND PURPOSE OF THIS GUIDE

Part of the QBCC's regulatory role is to assess the financial position of licensees to ensure that they comply with the minimum financial requirements set out in the *Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018* (the Regulation). The QBCC carries out this role by reviewing MFR reports, annual financial reporting information and other financial information provided to it by licensees.

In reviewing this information, the QBCC comes across examples of frequently occurring problems. The purpose of this guide is to highlight those common problems and briefly explain them. The aim is to assist licensees and their professional advisors to better understand the minimum financial requirements so that licensees can ensure that they comply with the requirements.

IMPORTANT NOTE

The application of financial principles in the Regulation in most cases is not discretionary – QBCC does not have the discretion on whether an asset is acceptable or not. If an asset meets the definition outlined in the Regulation it can be included in calculating net tangible assets or current ratio, but if it does not meet this definition or is defined as a disallowed asset, it cannot be included in calculations.

EXAMPLES OF COMMON PROBLEMS

REQUIREMENT: **MFR Reports must be no more than 4 months old as at the day the report is signed by a qualified accountant**

EXAMPLE: An MFR Report for the reporting year ended 30 June 2020 and signed off by the accountant on 3 November 2020 cannot be accepted.

REQUIREMENT: **MFR Reports must be provided to QBCC within 30 days of the qualified accountant signing the report**

EXAMPLE: An MFR Report for the reporting year ended 30 June 2020, and signed off by the accountant on 30 October 2020 (within the 4 month rule above) must be provided to QBCC before 29 Novemer 2020.

REQUIREMENT: **A licensee's actual revenue must include all revenue from all sources**

EXAMPLE: If an entity carries out work nationally or interstate, the actual revenue needs to include all income derived, not just the Queensland portion. Actual revenue also includes all revenue from non construction work, such as farming, or lawn mowing.

REQUIREMENT: **Licensees must hold net tangible assets of at least $0**

EXAMPLE: The net tangible asset position cannot be negative. A licensee cannot rely upon a deed of covenant and assurance if the NTA position without the deed is negative.

REQUIREMENT: **Where a licensee relies on a related entity asset loan to meet current ratio and NTA requirements, the related entity must itself meet current ratio and have NTA of at least $0.**

EXAMPLE: The related entity (at same balance sheet date as the licensee) needs to hold NTA of at least $0 (cannot be negative) and a current ratio of not less than 1:1.

The related entity is assessed in the same way as the licensee – any intangible assets must be deducted, and any related entity asset loans that the related entity relies upon, also need to be tested.

If the licensee relies upon the related entity asset loan as a current asset, the related entity must have the amount recorded as a corresponding current liability.

If the related entity does not have a current ratio of 1:1 or has NTA less than $0, then the related entity asset loan cannot be included in calculations for the licensee.

Related entity liability loans can never be deducted from the licensee's total liabilities.

If a licensee has a related entity asset loan owing to it, and a related entity liability loan owing by it, these cannot be offset unless the related entities are the same legal entity. For example, a company has money owing to it from John Smith, and owes money to another of John's company's named JS Pty Ltd. The asset and the liability loans cannot be offset against each other, as John Smith is a separate legal entity to JS Pty Ltd.

REQUIREMENT: **Particular rules apply where a licensee is a trustee company trading through a trust**

EXAMPLE: The Trust must also provide financial statements.

The Trust is assessed in the same way as the licensee – any intangible assets (such as borrowing costs, or goodwill) must be deducted

If, by deducting intangible assets, the Trust then has a negative net tangible asset position, the amount of the deficiency in trust assets is considered to be a liability of the trustee company and is deducted from the trustee company's net asset position.

If the Trust has unpaid present entitlements, they need to be recorded as current liabilities of the Trust, unless there is an unconditional right to defer settlement of this liability (the parties have entered into a binding agreement for its repayment).

REQUIREMENT: A licensee's net tangible assets and current ratio position cannot include disallowed assets

EXAMPLE: Net tangible assets cannot include borrowing costs, or deferred tax assets.

Investments (or shares owned) in companies cannot be included unless they are listed on a stock exchange.

Provision of debtors needs to be allowed for – invoices between 180 and 365 days can only include 50% of the amount, and invoices over 365 days have to be 100% deducted.

REQUIREMENT: Particular rules apply if a licensee relies upon a deed of covenant and assurance to meet the minimum financial requirements

EXAMPLE: A completed covenantor's statement of financial position is required for each covenantor.

Copies of evidence sighted to confirm values of assets and liabilities held by each covenantor are required.

The covenantor is assessed in the same way as the licensee – any intangible assets or disallowed assets (such as personal furniture) must be deducted from calculations.

For further information relating to the Minimum Financial Requirements, please refer to:

- The MFR Report Information Sheet;
- QBCC's website (www.qbcc.qld.gov.au/financial-reporting-licensees/frequently-asked-questions-minimum-financial-requirements)
- *Queensland Building and Construction Commission (Minimum Financial Requirements) Regulation 2018*

[1] Note that licensees in categories SC1 and SC2 cannot rely on a deed of convenant and assurance