

29 January 2010

Review of the Financial Reporting Framework  
Competition, Trade and Investment Branch  
Ministry of Economic Development  
PO Box 1473  
Wellington

## **THE STATUTORY FRAMEWORK FOR FINANCIAL REPORTING**

- 1 The New Zealand Private Equity and Venture Capital Association (*NZVCA*) is pleased to provide comment on the Ministry of Economic Development's discussion document entitled *The Statutory Framework for Financial Reporting* dated September 2009 (the *Discussion Document*).
- 2 This submission focuses on the proposal contained in part 4 of the Discussion Document that certain limited partnerships should be subject to financial reporting obligations.

### **Introduction**

- 3 The NZVCA's mission is to develop a world-best venture capital and private equity environment for the benefit of investors and entrepreneurs in New Zealand. Its activities cover the whole spectrum of investment in New Zealand private enterprise, including Angel investment, seed and early-stage venture capital through to development capital and private equity (including management buy-outs and buy-ins).

### **Submission**

- 4 The NZVCA supports the concerns expressed by Chapman Tripp in its submissions to you, and does not support the proposal to impose financial reporting obligations on certain limited partnerships. In addition to the reasons outlined by Chapman Tripp, we comment below on the specific issues for New Zealand private equity and venture capital investors.

### **Background**

- 5 The Limited Partnerships Act 2008 (the *Act*) requires a limited partnership applying for registration to include the names and addresses of the general partners and the limited partners.
- 6 The Act recognises that limited partners may not wish to publicly disclose their interest in a limited partnership. This is consistent with the character of the limited partner as a passive investor. Accordingly, section 115 of the Act requires the Registrar of Companies to treat all limited partner information as confidential. Only details of the general partner are available for viewing by the public.

- 7 This confidentiality restriction addresses the risk that venture capital investors could choose to bypass New Zealand as an investment destination in favour of an overseas jurisdiction where this information is not publicly available. This is a real risk because details of limited partners are not publicly available in a number of other jurisdictions, particularly in the United States.

**Concerns**

- 8 The NZVCA has serious reservations about the proposal that limited partnerships which meet the financial reporting indicators outlined in the Discussion Document should be required to file publicly their financial statements.
- 9 Currently, limited partnerships must prepare financial statements each year but are not required to file or audit them (unless stipulated in the limited partnership agreement). We are concerned that the benefits of privacy presently afforded to limited partners – a key feature of the limited partnerships regime – will be lost if limited partnerships are subject to financial reporting obligations.
- 10 This will have significant implications for the attractiveness of a limited partnership as an investment vehicle over the company structure, where names and shareholdings are publicly available on the Companies Office website. It also threatens to discourage overseas investors from investing in limited partnerships in New Zealand given that the anonymity of investors is a key feature of various overseas jurisdictions. This could undermine New Zealand's ability to compete for international capital investment.
- 11 In light of the Act's stated objective of "facilitat[ing] the development of the venture capital industry in New Zealand", we implore the Ministry of Economic Development to reconsider its views in the Discussion Document.

**Further discussion**

- 12 The NZVCA would be happy to discuss this submission further. For more information, please contact Colin McKinnon (Executive Director, NZVCA) on +64 9 302 5218 or colin.mckinnon@nzvca.co.nz or Nick Wells (Partner, Chapman Tripp) on +64 9 357 9004 or nick.wells@chapmantripp.com.

Yours faithfully,



Colin McKinnon  
Executive Director