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Manager
Benefits and Regulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: strongersuper@treasury.gov.au

RE: *Tax Laws Amendment (2012 Measures 2 No. 6) Bill 2012: Roll-overs to self-managed superannuation funds*

Dear Manager,

The Association of Superannuation Funds of Australia (ASFA) would like to lodge this submission in response to the exposure draft *Tax Laws Amendment (2012 Measures 2 No. 6) Bill 2012: Roll-overs to self-managed superannuation funds* relating to roll-overs to self-managed superannuation funds (SMSFs) being captured as a designated service under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

Comments

In general, ASFA believes that the problem of illegal early release from SMSFs has improved significantly over the past two years. In that time the Australian Taxation Office (ATO) and the Australian Securities and Investments Commission (ASIC) have taken substantial steps in developing better registration systems and more effective pursuit of promoters of illegal early access so as to now render the incidence of illegal early release through a promoter lead activity to be rare.

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For this reason ASFA now questions whether the proposal to create a new Anti Money Laundering and Counter Terrorism Funding (AML/CTF) designated service for rollovers to SMSFs is the best way to address early release schemes.

Including a new designated service will have major implications for trustees of APRA regulated funds at a time when trustees have so much else on their plate.

If the Government is convinced that illegal early release from SMSFs is still an issue of the magnitude it was years ago, ASFA recommends that instead of the AML/CTF requirement being enacted a simpler and just as effective method would be to replace *Superannuation Industry (Supervision) Regulation 1994* (SISR) 6.34(3) with a requirement that reflects some key elements of the APRA guidance issued on 28 October 2010 titled *Managing the risk of rollovers and transfers to SMSFs* – see link <http://www.apra.gov.au/Super/Documents/Ref-No-IER-October-Release.pdf>

A distinct advantage of such a move would be to corral the law for rollovers within the confines of SIS and APRA as opposed to adding a separate AML/CTF requirement.

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We thank you for providing us with the opportunity to make this submission and to participate in the consultation process.

If you have any queries or comments regarding the contents of our submission, please contact our Policy Communications and Reporting Manager, Tony Keir on (02) 8079 - 0815 or via e-mail to tkeir@superannuation.asn.au

Yours sincerely



Margaret Stewart

General Manager, Policy and Industry Practice