

File Name: 2012/07

23 January 2012

Cost Recovery

Australian Transaction Reports and Analysis Centre
PO Box 5516
West Chatswood NSW 1515

Email: cost_recovery@AUSTRAC.gov.au

**AMENDED COST RECOVERY IMPACT STATEMENT - EXPOSURE DRAFT (DECEMBER 2011)
ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING REGULATORY ACTIVITIES**

The Association of Superannuation Funds of Australia (ASFA) would like to provide the comments below in relation to the exposure draft on the Amended Cost Recovery Impact Statement (CRIS) issued by the Australian Transaction Reports and Analysis Centre (AUSTRAC). The contents of this submission should be read in conjunction with ASFA's previous submissions to AUSTRAC dated 25 February 2011 and 10 December 2010 which outline our strong opposition to the Government's policy to recover AUSTRAC's regulatory costs from reporting entities. Whilst we do not intend to restate the reasons behind ASFA's position again in this submission, we feel it is nevertheless important to draw your attention to these prior submissions which contain, in detail, the reasons behind our objections to the AUSTRAC levy.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to advance effective retirement outcomes for members of superannuation funds through research and advocacy. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds as well service providers some of whom deal with self managed superannuation funds (SMSFs), has over 90% of the approximately 12 million Australians with superannuation as members. ASFA members manage or advise on the bulk of the \$1.3 trillion in superannuation assets as at September 2011. ASFA is the only organisation that represents all types of superannuation funds and associated service providers.

Costs associated with administering the levy

Section 3.3 of the Amended CRIS contains a table outlining the estimated regulatory budget for AUSTRAC for 2011-12 through to 2014-15. We note that one of the components in the regulatory budget relates to the measure's implementation and ongoing administration costs, stated to be \$1.8m in the first year and \$1.7m in the subsequent years covered by the budget period. This means that the cost associated with recovering the AUSTRAC levy will add more than 6% to AUSTRAC's administration costs. ASFA considers this to be an unacceptable increase in operating costs and a good indication that imposing the levy will be somewhat inefficient and therefore contradictory of the Government's cost recovery guidelines which require agencies to recover costs only where it is efficient to do so.

Earnings for the purpose of calculating the large entity component

We note that the applicable earnings measure for all institutions other than authorised deposit taking institutions, banks, building societies and credit unions is earnings before income tax expense, net financing costs, depreciation and amortisation (EBITDA).

ASFA has had ongoing discussions with AUSTRAC regarding this issue with respect to superannuation funds. Specifically, we questioned on behalf of the industry whether it is the EBITDA of the trustee or that of the trust (i.e. superannuation fund) that should be used in the calculation. Following a number of discussion with AUSTRAC, we received written confirmation from AUSTRAC on 4 November 2011 that:

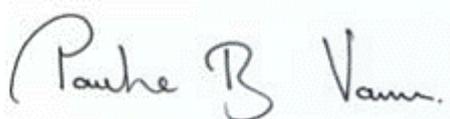
"It is AUSTRAC's view that the trustee is the legal entity that is entered on the RE Roll. On this basis the earnings of the trustee company are to be used. This approach will be supported by the final version of the Ministerial Determination."

ASFA seeks legal clarity confirming that, from a superannuation perspective, it is the trustee's earnings, not the earnings of the trust, which should be used in the calculation of the large entity component. That is, we recommend this position should be made clear in the final Ministerial Determination for the 2011-12 financial year in order to avoid confusion or misinterpretation.

* * * * *

If you have any queries or comments on this submission, please feel free to contact Jon Echevarria, Senior Policy Adviser on 02 8079 0859 or by email jechevarria@superannuation.asn.au.

Yours sincerely,



Pauline Vamos
Chief Executive Officer