



The Voice of Super

File Name: 2008/07

General Manager
Regulatory Policy
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23 January 2008

Dear General Manager

DRAFT AML/CTF RULES RELATING TO CUSTOMER IDENTIFICATION PROCEDURES IN CERTAIN CIRCUMSTANCES - TAKEOVERS, SCHEMES OF ARRANGEMENTS, BUSINESS DISPOSALS AND BUSINESS ASSIGNMENTS

The Association of Superannuation Funds of Australia (ASFA) would like to provide the comments below in relation to the Australian Transaction Reports and Analysis Centre's (AUSTRAC) document *Draft Anti-Money Laundering and Counter-Terrorism Financing Rules relating to customer identification procedures in certain circumstances - takeovers, schemes of arrangement, business disposals and business assignments*.

General comments

ASFA supports the general concept of the proposed rules.

ASFA notes that the general thrust of the rules is that where a reporting entity takes over all or part of the business of another reporting entity then, provided the AML/CTF risk has been assessed, there is no requirement for the other reporting entity to verify the identity of the customers transferred as part of the arrangement (subject to the requirements of Rule 4).

ASFA is concerned that the draft rules may not support the following transactions which occur in the superannuation industry and which have a similar commercial and economic effect:

The amalgamation of a superannuation fund with another superannuation fund under a successor fund arrangement. All of the members and their interests are transferred from one fund to another by agreement between the trustees of the two funds.

The amalgamation of a superannuation fund with another superannuation fund under a mutually agreed arrangement between fund trustees. All of the members and their entitlements are transferred either from one fund to another, or from both funds to a new fund, by agreement between the trustees of the two funds.

The bulk transfer of members from a superannuation fund to an eligible rollover fund (ERF). Under agreement between the trustee of the superannuation fund and the trustee of the ERF, the benefits of fund members who meet an agreed set of

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criteria are transferred at regular intervals to an ERF. The criteria for the move generally centers on the member being deemed to be inactive (no contributions being received). Within the ERF the member is subject to lower administration fees.

ASFA considers that, if not covered by 2.(3) AND 2.(4), each of the above situations should be covered by the rules as they are, in essence, a similar transaction to those prescribed.

If you have any questions or comments on this matter, please feel free to contact Robert Hodge, Principal Policy Adviser on 02 9264 9300 or by email rhodge@superannuation.asn.au.

Yours sincerely,

Dr Brad Pragnell

Director, Policy and Best Practice

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