

AUSTRAC Draft Rules Customer ID & Business Reorganisations

ASFA Submission

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Association of Superannuation Funds of Australia

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Draft AML/CTF Rules Relating to Customer Identification Procedures in Certain Circumstances – Assignment, Conveyance, Sale or Transfer of Businesses

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 – assignment, conveyance, sale or transfer of businesses*.

General comments

ASFA strongly supports the general concept of the proposed rules.

ASFA notes that the rules represent a significant broadening of the rules proposed in the earlier *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*.

ASFA welcomes this broadening of approach by AUSTRAC. ASFA notes that the new Rule is consistent with, but extends the earlier proposal, which was limited to corporations undertaking company reorganisations. The new draft Rules extend the concession to transactions with a similar commercial and economic effect to those achieved under company reorganisations. This change addresses ASFA's concerns with the earlier draft.

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, subject to Rule 3, a customer's status as a pre or post commencement customer is retained as they move from reporting entity 1 to reporting entity 2.

The proposed Rules will provide significant benefit to superannuation funds as the industry consolidates in line with Government Policy.

Specific comments

ASFA has identified two minor drafting issues as set out below:

3.(1) Does the term 'a part' cover both a full and a partial disposal or, for clarity, should the words be 'all or a part'?

ASFA is concerned that the words 'a part' generally indicate that there is something remaining following the assignment, conveyance, sale or transfer. This will not always be the case.

3.(3)(c)(1) Should the word identification in 'verify the identification of' be replaced with 'identity'?

The context appears to be that reporting entity two is able to rely on the procedure adopted by reporting entity one as being an appropriate means to firstly identify and then verify the identity of a customer. In that context it is felt that 'verify the identity of' is more appropriate.

If you have any questions or comments on this matter, please feel free to contact Robert Hodge, Principal Policy Adviser on 02 8079 0806 or by email rhodge@superannuation.asn.au.

Letter sent on 29 January 2009 to:

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