

Date 23 July 2010

Phil McDonald  
Australian Taxation Office

OPSSUPERCRT-RUNDLE@ato.gov.au

Dear Phil

RE: LMR\_Protocol\_5B3C5568 update 30 June 2010.doc

Thank you for providing the Association of Superannuation Funds of Australia with the opportunity to comment on the updated LMR protocol document.

### **General comments**

For future reference, the task of reviewing the document would have been made easier if a 'marked-up' version of the original document had been provided.

In general, ASFA has no issues with the additional information included in the document, or with those parts that have been re-worded to assist comprehension.

We note however that the document is not consistent with the proposed technical specification version 5.5 of Lost Member Statement (LMS) which is to have effect backdated to 1 July 2010.

This version of the electronic reporting specification for a Lost Members Statement (LMS) states, in section 2, that you only report a lost member where the member "does not meet the definition of a small and/or insoluble lost member account." Later (in Section 7 at 7.72) it is stated that "Accounts with less than \$200 must be reported as USM." (Unclaimed Superannuation Money).

There is no mention in the document under review that members with account balances of less than \$200, or an 'insoluble member account' are to be excluded from the lost member decision process and are not to be reported on an LMS. This topic should be clearly addressed in the document and included in the 'decision tree' (perhaps as the first decision point).

ASFA recommends that neither document be finalised until this inconsistency is resolved.

On the same topic, as the reporting to the ATO of lost members is but one part of a series of integrated processes that a superannuation provider must undertake, it would assist if there was acknowledgment within this document of those interactions and a clear indication given of which activities take precedence.

### **Specific comments**

The following comments relate to specific sections of the document.

*The law*

First paragraph

Replace 'provisions that outlines the lost members register regime is contained' with 'provisions that outline the lost members register regime are contained'.

*What is a lost member?*

Second paragraph

"These regulations defines' should be 'These regulations define'.

*Verified*

Last paragraph

Consider replacing 'their investment options, this also would not be' with 'their investment options, it would not be'.

*When is a member inactive?*

In the last two paragraphs the concept is discussed where a member has two accounts in separate funds under the one 'super provider'. I have some concerns with the terminology used.

If a single trustee is trustee for two separate funds (i.e. established under separate trust deeds) it is arguable that the trustee has no legal authority to pass information from one trust to the other.

However, where the trustee is administering two funds under the same trust deed (e.g. a public offer product and an employer sub plan in a master trust arrangement) then the trustee would generally have the capacity to treat the two accounts as one. That is the trustee should be able to treat an account that is notionally 'lost' as not being lost where the member has another account under the same trust deed that is not notionally 'lost'.

Has this concept been carried over to the Unclaimed Superannuation Money protocol document and, if not, should it be?

*Previously reported members*

Second paragraph

This paragraph begins with "An existing lost member record can .....". This gives the impression that the action is optional.

To clarify the intent, and to improve the flow of the section, consideration should be given to rewording this sentence as follows: "A previously reported member record must be removed from the LMR where:"

The next paragraph could then commence: Where removal of the record is required, the ATO .....

*Appendix 1*

Each of the examples should be numbered.

Should you have any questions on the above please contact me on (02) 8079 0806

Robert Hodge

Principal Policy Adviser