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SuperStream Standards
Australian Taxation Office

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RE: Draft 'Schedule 1 – Transitional Arrangements' to the *Superannuation Data and Payment Standards (2012)*

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the request for comments on the consultation draft of 'Schedule 1 – Transitional Arrangements' to the *Superannuation Data and Payment Standards 2012* (the Standard).

We note the intent of the draft is to extend the time for transitional arrangements and establish an induction process to support the orderly implementation of employer contributions in the Standard.

About ASFA

ASFA is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. 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.

General comments

ASFA welcomes the 12 month extension to the period during which alternate electronic file formats may be used. The extension until 30 June 2017 recognises both the considerable investment made in the existing electronic file formats and the significant effort required to implement the Standard and integrate new arrangements into existing processes. Concerns remain, however, that the transition-in period end date of 1 July 2017 may be too early, particularly given the significant investment which has been made in a process that is fully electronic and which delivers a complete contributions distribution service to employers. We understand that discussions will continue with the industry on the circumstances under which such services may be converted from a transitional to an enduring contributions arrangement.

ASFA also welcomes the decision of the ATO to be actively involved in the induction of employers to the Standard. The implementation of the Standard with respect to contributions is far more complex than with respect to rollovers. The key lessons from the implementation of the Standard with respect to rollovers were the need for a co-ordinated and staged approach to implementation

and on-boarding of funds and the essential role played by the SuperStream transaction network of gateways. ASFA, in a presentation to the SuperStream Advisory Council, advocated a more decisive role by the ATO in the implementation of the contributions Standard and an extension to the contributions transition-in period.

The direct ATO orchestration of the transition of employers to the new standard during the first six months of the Standard's operation is, we believe, recognition of the complexity of the task confronting both employers and superannuation funds. Through the orchestration process the ATO can manage the number of employers using the new standard and thus the volume of contributions processed under the new standard. This should enable both employers and funds to build up confidence in the new processes.

With respect to the important role played by gateways, ASFA is concerned at the absence of stable governance arrangements for the SuperStream Transaction Network (SSTN). This has implications for the introduction of new gateway service providers and for the long term stability of the transaction network. ASFA has separately raised these concerns with Government and is seeking direct government regulation of the SSTN.

Despite the relief granted above, ASFA notes that the implementation timeframes are still challenging. We are also concerned that the industry lacks clarity on the proposed requirement for funds to pass through the data relating to an employer's choice contributions and that there is a considerable number of technical documents that are still to be clarified. Each of these matters impacts on the capacity of the industry to deliver the expected outcomes as required.

Specific comments

Effectiveness in meeting the stated objective

The primary purpose of the proposed change, as set out in the third paragraph of the explanatory statement, is to introduce a degree of control over the adoption of the data standard by employers. Such an orderly and graduated implementation is considered essential given the magnitude of the change and the number of entities impacted. Presentations by the ATO have indicated that a three tiered approach to the implementation of contributions is to be adopted. The expectation is that from 1 July 2014 medium and large employers will either:

- Use an electronic bridging solution, or
- Participate in the induction process, or
- Continue to use existing processes until, prior to 1 July 2015, they adopt a bridging solution or adopt the Standard

This approach is designed to allow for compliant contribution arrangements to be tested with low volumes of transactions and then implemented more widely. That is, the intent is for a gradual implementation of compliant solutions and a build-up of user numbers and transaction volumes over the first 12 months as solutions are proven. This approach is viewed by ASFA as a sound approach and is strongly supported.

A similar approach was adopted with the implementation of Rollovers, whereby every APRA regulated fund was allocated to an induction process and their implementation of the data standard was overseen by the ATO through an ATO controlled induction process.

However in our view, and for the reason set out below, in attempting to achieve the same controlled implementation process for contributions the draft fails to achieve that outcome and therefore will not achieve the necessary degree of control required for an orderly implementation.

The *Superannuation Industry (Supervision) Act 1993 (SIS Act)* requires employers to comply with the contribution Standard from 1 July 2014 or 1 July 2015, depending on the number of employees. Schedule 1 proposes a degree of relief for employers by offering two alternative deemed-compliant solutions to achieving full conformance with the Contributions Data Standard from the relevant commencement date:

Paragraph 4.3 Contribution transition-in arrangements – electronic file formats that do not conform with the standard

Paragraph 4.4 Contribution induction period – exception to conformance with the Standard

Paragraph 4.3 requires an agreement between the employer and the fund. Paragraph 4.4 requires an application to be made to, and the agreement of, the ATO. Where that is achieved, subparagraph 4.4(7) grants an exemption to conformance with the Standard.

However, where a medium or large employer does not apply paragraph 4.3 and also fails to get ATO agreement to apply paragraph 4.4 it would appear that Schedule 1 provides no further relief. That is, the employer is required by the primary legislation to use a fully compliant solution from the commencement date of 1 July 2014. If this is the case then Schedule 1 will fail in its primary objective to achieve an orderly and graduated implementation of the Standard due to the lack of control over, or relief for, the large number of employers required to transact under the Standard from 1 July 2014 and the volume of those transactions.

The fundamental difference between the induction process for rollovers and the proposed induction process for contributions is that, with rollovers, every APRA regulated fund was allocated to an induction group. For contributions, Schedule 1 fails to ensure that every employer is captured by either a bridging solution (paragraph 4.3) or is part of the induction process (paragraph 4.4).

Consideration could be given to including in the Legislative Instrument a requirement that an employer transacting under the Standard may only use certified software (see following section for further discussion on certification).

Recommendation 1

That the drafting of the Legislative Instrument be reviewed to confirm its effectiveness in achieving the desired outcome and modified if necessary.

Recommendation 2

That the Explanatory Statement more fully set out the means by which the Schedule is effective in achieving a staged and orderly transition to the Standard.

Certification of software

One of the features of the ATO's proposed induction process is the requirement for third party certification of software solutions prior to their acceptance into the induction process. ASFA is concerned both with the proposed certification process and that no such certification process is required for software solutions used by non-participants in the induction process.

The proposed certification process consists of a cross certification of the IT solution during the group induction period.

Given the nature of the data being dealt with ASFA considers that a greater degree of rigour needs to be introduced into the certification process. While we do not see it is the ATO's role to certify IT solutions, we consider that the ATO does have a role to play in ensuring such certification occurs.

The certification process could operate along similar lines to the induction process. That is, an entity would nominate to provide third party IT certification in an ATO induction process. Prior to nomination the entity must agree to participate in the ATO's induction process. The entity must apply to participate in a specific induction group and prior to accepting the entity into an induction group the ATO must be satisfied that the entity can meet an ATO-established set of competence criteria.

Introducing the concept of only using certified software would significantly ameliorate the risk of an employer commencing to transact under the Standards from 1 July 2014 using a non-certified solution purely on the basis that they have what they believe to be Standards compliant software and because all funds are required to be able to accept contributions under the new Standard from 1 July 2014.

One of the key findings from the implementation of rollovers was that no matter how well defined the Standards are there will always be differences in interpretation that need to be resolved between transacting parties. This is what certification of software and adoption through an induction process is designed to achieve. Given the considerably greater number of transacting parties and the increased need for confidence in the process by employers that will be placing their faith in a third party delivered solutions, such a certification\induction process is considered essential for contributions.

Recommendation 3

That the Legislative Instrument set out a more rigorous process for the certification of compliant IT solutions.

Governance of the SuperStream Transaction Network

Despite the concerns expressed above, ASFA acknowledges that in a practical sense, an employer cannot make a unilateral decision to commence transacting under the Standard. To deliver transactions to all necessary funds requires either an agreement with a gateway that is a participant in the SuperStream Transaction Network (SSTN) or a separate agreement with each fund to which contributions are to be delivered as to the security and other arrangements that are to apply to transacting.

The value delivered by the SSTN to employers and funds alike is that it is a collection of gateways who have reached common agreement on how they will transact and have exchanged security credentials. Thus, rather than entering into a separate agreement with each destination party, a transacting party (or their agent) enters into an agreement with a gateway to send and receive transactions on their behalf.

While entering into a separate agreement with each fund to which it needs to make contributions is possible, it is not considered a feasible option for most employers as implementing such arrangements is complicated, time consuming and costly to implement. It is also contrary to the fundamental design of SuperStream of delivering a single, seamless, contributions solution for employers.

Currently, each APRA regulated fund, or their administrator, has an agreement with an SSTN gateway member for the receipt and delivery of transactions. To use the SSTN an employer would need to join the SSTN as a gateway member, or enter into an agreement with a gateway member of the SSTN.

However, entering into an agreement with an SSTN gateway participant does not involve the agreement of the ATO. Thus the proposed change to Schedule 1 would appear to provide the ATO with no control over when an employer commences to transact under the Standard.

This highlights a fundamental flaw in the current SuperStream governance arrangements: the lack of regulation of gateways and the manner in which the SSTN network operates. As the performance of the gateway network is fundamental to the successful implementation of the data standards and their long term successful operation ASFA considers it essential that the ATO use its existing powers under the SIS Act and regulates the manner in which the SSTN operates beyond the basic requirements currently set out in *Schedule 5 – Data and Payment Standards – Message Orchestration and Profiles* of the Legislative Instrument.

Recommendation 4

That the ATO exercise its powers under the SIS Act to further regulate the manner in which the SuperStream Transaction Network operates with respect to superannuation rollover and contribution transactions.

Recommendation 5

That a certification process be established by the ATO with respect to the IT solution provided by an entity acting as a SuperStream Transaction Network gateway services provider and that it do so using its existing powers under the SIS Act with respect to data and payment matters.

Recommendation 6

That the Explanatory Statement provides contextual information on the implementation of the data standards such that the complexities of implementation and the implications of the proposed change can be better understood by employers, funds and service providers to both groups.

Certification of data protection solution

ASFA has concerns about security of data. Given the volume of data being transferred, the nature of that data and that the data can be referenced to an individual, consideration needs to be given to the security of the data throughout the transaction chain.

Arguably entities should be required to have third party certification of their data protection policies and processes, given the best practice principles issued by the Office of the Australian Information Commissioner (OAIC).

Recommendation 7

That the ATO consider the relevance of the OAIC's best practice principles on data protection and whether, as part of the induction process, third party certification of participating entities data protection policies and procedures is desirable.

To assist in consideration of how Recommendations 3 and 7 could be included in the Legislative Instrument, Annexure 1 contains the draft Legislative Instrument expanded to include additional rules at paragraph 4.6.

Error Messaging Requirements

The final paragraph of the Explanatory Statement to the Legislative Instrument states that error messaging capability 1 will not be required in the first 6 months of the induction period unless paired entities agree otherwise. The Explanatory Statement does not provide a direct reference to where this change is incorporated but it would appear to refer to paragraph 4.4(5)(i) of the Legislative Instrument which states that:

The minimum specified profile to be used between the employer and the trustee of an APRA-regulated superannuation entity or SMSF during the group induction period is the

ultra-light profile as set out in section 3.3.1 of the *Data and Payment Standards – Message Orchestration and Profiles* document referred to in Schedule 5 to the Standard as it exists from time to time.

In essence, the Explanatory Statement wording would mean that during the transition-in period parties transacting under the Standard are not required to send or receive business error messages, only transmission error messages: those that deal with acknowledging the receipt of the message.

The reason for this would appear to be to reduce the complexity of implementation and to provide additional time for entities to develop and test solutions prior to moving to full implementation.

Whilst the logic of this approach cannot be denied ASFA is not convinced that the wording of the Legislative Instrument is effective in achieving the outcome.

As the requirement is specified in paragraph 4.4(5)(i), it appears to be only effective with respect to those employers who apply for and are accepted into the contribution induction process. It would therefore appear that those employers subject to the standard that are not using a transitional arrangement or are not accepted into an ATO-orchestrated induction arrangement will still be required to fully comply with the Data Standards from the commencement date, including having error messaging capability 1.

Additionally, section 4.3 of the Legislative Instrument does not specify the contributions induction period as being 6 months but rather as separate 12 month periods for employers of various sizes.

It would appear therefore that the desired outcome of six months' grace on the electronic reporting of business errors can only be achieved through the ATO's administration of the law, rather than through the law itself. If this is the case then that should be made clear in the Explanatory Statement.

Recommendation 8

That the drafting of the Legislative Instrument be reviewed to confirm its effectiveness in achieving the desired outcome.

Recommendation 9

That the Explanatory Statement more fully set out the means by which the relaxation of the requirement to use error messaging capability 1 during the first six months of the induction period is to be achieved.

It is also necessary to acknowledge what impact the decision to suspend the reporting of business error messaging during the induction period may have on certain transacting parties.

As all superannuation entities are required to be able to receive compliant contribution transaction messages from 1 July 2014, many such entities are building fully compliant complete solutions. These complete solutions will incorporate the automatic creation and sending of business messages, including business error messages. That is, for messages received in accordance with the Data Standards the solution facilitates straight through processing of transactions and automated notifications of business errors. This process has been built on the solution delivered for the processing of rollover transactions. The requirement to 'switch off' this functionality for the first six months of the contributions phase will result in greater complexity in processing for affected funds. It will require the implementation of interim processing procedures leading to associated increased implementation costs for those funds.

Currently all funds are transacting through a gateway. As such, they have been required to negotiate with their gateway provider the method by which business error messages are handled.

All employers (or their transacting agent) transacting under the new data standards will similarly need to transact through a gateway. In discussing the business arrangement with the gateway services provider agreement would also be required as to how transmission and business error messages are to be delivered to the employer (or their transacting agent). Given this, ASFA questions the need to suspend for six months the requirement for employers (or their transacting agent) to have error messaging 1 capability.

Recommendation 10

That the ATO review the proposal to not require error messaging capability 1 during the first six months' of the induction period or better explain the rationale for the decision.

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I trust that the information contained in this submission is of value.

If you have any queries or comments regarding the contents of our submission, please contact ASFA's Principal Policy Adviser, Robert Hodge, on (02) 8079 0806 or by email rhodge@superannuation.asn.au.

Yours sincerely



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ANNEXURE 1

- DRAFT FOR CONSULTATION -

4. CONTRIBUTION TRANSITIONAL ARRANGEMENTS

4.1 Contribution transition-in period

- (a) For the purposes of this Schedule, the ***contribution transition-in period*** means the period between 1 July 2014 and 30 June 2017.
- (b) Alternate electronic file formats described in clause 4.3 must not be used by an employer, a trustee of an APRA-regulated superannuation entity or a trustee of an SMSF after 30 June 2017.

4.2 Contribution induction period

For the purposes of this Schedule, the ***contribution induction period*** means

- (a) For medium and large employers, the period between 1 July 2014 and 30 June 2015, and
- (b) for small employers, the period between 1 July 2015 and 30 June 2016.

4.3 Contribution transition-in arrangements – electronic file formats that do not conform with the Standard

During the ***contribution transition-in period***, contribution transaction messages as defined in the document referred to in Schedule 4(a) to the Standard may be submitted by an employer to a trustee of an APRA-regulated superannuation entity or a trustee of an SMSF in an electronic file format that does not conform with the Standard provided that the following conditions are met:

- (a) the employer and the trustee agree in writing that each party to the agreement will meet the requirements as set out in paragraphs (b)(i) to (b)(iv) of clause 4.3 during the contribution transition-in period or such shorter period as might be agreed to between the parties; and
- (b) in relation to the contribution transaction messages the following conditions are satisfied:
 - (i) terms and definitions used in the alternate format align with the relevant terms and definitions specified in the document referred to in Schedule 2 to the Standard;
 - (ii) associated payments conform with the methods specified in the document referred to in Schedule 3 to the Standard; and
 - (iii) alternative data mappings (if any) are documented to show how the alternative data elements map to the data elements in the document referred to in Schedule 4(a) to the Standard;
 - (iv) business rules and data requirements used in the alternate format align with the business rules and data requirements specified in the document referred to in Schedule 4(a) to the Standard.

4.4 Contribution induction period – exception to conformance with the Standard

- (1) An employer or a trustee of a regulated superannuation entity may nominate to participate in a contribution induction process provided by the Commissioner.
- (2) Prior to nominating, an employer and a trustee must agree to participate in a contribution induction process provided by the Commissioner.

(3) Where an entity nominates to participate in the contribution induction process, the Commissioner will advise the entity if their nomination has been accepted.

(4) If an entity's nomination is accepted, the Commissioner will advise the entity of the *contribution induction group* the entity will participate in, and the *induction commencement date* and *induction completion date* for that group. These dates establish the *group induction period* for an induction group.

(5) The Commissioner may accept a nomination in respect of a contribution induction group if the following conditions are satisfied:

- (i) The minimum specified profile to be used between the employer and the trustee of an APRA-regulated superannuation entity or SMSF during the group induction period is the ultra-light profile as set out in section 3.3.1 of the *Data and Payment Standards - Message Orchestration and Profiles* document referred to in Schedule 5 to the Standard as it exists from time
- (ii) Third-party certification of the IT solution to be applied during the group induction period has been completed before the commencement of the group induction period.
- (iii) Cross-certification of the IT solution applied during the group induction period will be completed not later than four weeks after the end of the group induction period.
- (iv) Third party certification of the data protection solution to be applied during the group induction period has been completed before the commencement of the group induction period

(6) Where an entity is advised by the Commissioner of an induction commencement date that is later than

- (i) 1 July 2014, in relation to a medium or large employer, or
- (ii) 1 July 2015, in relation to a small employer,

the entity may enter into a contribution transition-in arrangement under clause 4.3 for the period until their induction commencement date.

(7) Where an employer is accepted and participates in the contribution induction process provided by the Commissioner, an exception to conformance with the Standard exists for the *contribution induction period* in relation to contribution transaction messages defined in the document referred to in Schedule 4(a) to the Standard submitted by the employer to any trustee.

4.5 Requirement to receive compliant contribution transaction messages

Notwithstanding clause 4.3 or clause 4.4, on and after 1 July 2014 a trustee of an APRA-regulated superannuation entity or a trustee of an SMSF must maintain a capability to receive from employers contribution transaction messages that comply with the relevant specifications and requirements contained in the document referred to in Schedule 4(a) to the Standard.

Draft wording for suggested addition

4.6 Third party certification

(1) An eligible entity may nominate to provide third party IT certification in a contribution induction process provided by the Commissioner.

(2) Prior to nominating, an eligible entity must agree to participate in an IT certification induction process provided by the Commissioner.

- (3) Where an entity nominates to participate in the IT certification induction process, the Commissioner will advise the entity if their nomination has been accepted.
- (4) If an entity's nomination is accepted, the Commissioner will advise the entity of the IT certification *induction group* the entity will participate in, and the *induction commencement date* and *induction completion date* for that group. These dates establish the *group induction period* for an induction group.
- (5) An entity is eligible to provide third party IT certification in a contribution induction process if the Commissioner is reasonably satisfied that:
- [insert competence criteria]
- (6) An eligible entity may nominate to provide third party data protection certification in a contribution induction process provided by the Commissioner.
- (7) Prior to nominating, an eligible entity must agree to participate in a data protection certification induction process provided by the Commissioner.
- (8) Where an entity nominates to participate in the data protection certification induction process, the Commissioner will advise the entity if their nomination has been accepted.
- (9) If an entity's nomination is accepted, the Commissioner will advise the entity of the data protection certification *induction group* the entity will participate in, and the *induction commencement date* and *induction completion date* for that group. These dates establish the *group induction period* for an induction group.
- (10) An entity is eligible to provide third party data protection certification in a contribution induction process if is reasonably satisfied that:
- [insert competence criteria related to the best practice principles provided by the OAIC]