

Submission number 2014/30

2 September 2014

**ATO - Draft Taxation Ruling TR 2014/D2 – request for additional information**

ASFA responded to an ATO request for additional information regarding determination of the source of FX hedging gains.

The information provided has been sourced from ASFA members who in turn have sought advice and information from their service providers.

The response, in addition to providing responses to the specific questions posed notes that the ATO has scheduled TR 2014/D2 for finalisation and release in December 2014 and suggests that should such a release date eventuate, the earliest the ruling should apply is to the 2015 and subsequent income years.

The response also reiterates the previously advised ASFA position that, should it be decided that the source of *each transaction* is relevant in determining the entitlement of the superfund to a FITO, an acceptable position would be to identify the parties to the relevant transaction under the ISDA.

Specifying the office through which a party is acting for the purposes of the Agreement, and the transactions entered into, involves no artificiality but is a normal commercial mechanism to identify the office which is responsible for the making of any payments and deliveries that are due.

Such an approach would also be consistent with the Government's stated objective of avoiding unnecessary red tape.