

# SUBMISSION

Submission to ASIC —  
Consultation Paper 335:  
*Consumer remediation:  
Update to RG 256*

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26 February 2021

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26 February 2021

Dear Ms Fairbairn

**Consultation Paper 335: *Consumer remediation: Update to RG 256***

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to Consultation Paper 335: *Consumer remediation: Update to RG 256*.

**About ASFA**

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$2.9 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 16 million Australians with superannuation.

**General comments**

*Two-tiered approach to initiating a remediation*

Tier 2 in CP 335 refers to licensees turning their mind to whether a remediation is warranted when a failure causing loss has breached certain 'standards, expectations and/or values'. ASFA recommends this be amended to 'standards, *reasonable* expectations and/or values' to ensure the expectations are what a reasonable person would expect in similar circumstances.

*Remediation money that cannot be returned to consumers*

CP 335 proposes that where a licensee is unable to lodge money with an unclaimed money regime, the money should be paid to a charity or not-for-profit registered with the Australian Charities and Not-for Profits Commission. For superannuation funds, an alternative option is for any unpaid money to be instead paid to the ATO so that it can be reunited with the consumer's active superannuation fund account.

### *Compensation money below \$20*

ASFA does not support the removal of the broad low-value compensation threshold of \$20. As the current RG 256 notes, paying compensation to clients can require significant effort on the part of the licensee. Requiring licensees to incur significant compliance and administrative costs in an effort to pay consumers compensation amounts as low as \$1 would not be, in ASFA's view, the best use of resources.

ASFA encourages ASIC to reconsider the removal of a broad low-value compensation threshold or, alternatively, allow superannuation funds to pay low-value remediation amounts to the ATO so that the ATO could reunite these amounts with the consumer's active superannuation account.

If you have any queries or comments in relation to the content of our submission, please contact Maggie Kaczmarska on (02) 8079 0849 or by email [mkaczmarska@superannuation.asn.au](mailto:mkaczmarska@superannuation.asn.au).

Yours sincerely

Glen McCrea  
Deputy Chief Executive Officer and Chief Policy Officer

