

File Name: 2011/22

8 June 2011

Cost Recovery
Australian Transaction Reports and Analysis Centre
PO Box 5516
West Chatswood NSW 1515

Email: cost_recovery@AUSTRAC.gov.au

**DRAFT PRIVACY IMPACT STATEMENT, DRAFT MINISTERIAL DETERMINATION AND
INFORMATION TO BE COLLECTED UNDER MANDATORY ENROLMENT
OF REPORTING ENTITIES**

The Association of Superannuation Funds of Australia (ASFA) would like to provide the comments below in relation to the above three documents and specifically the application to a trustee of a superannuation fund.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. 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.

Comments on the supervisory levy

As a preface to our further comments, ASFA would like to draw attention to 10 December 2010 and 25 February 2011 submissions in which we indicated strong opposition to the Government's proposal to recover AUSTRAC's regulatory costs from reporting entities. Our position on this remains unchanged and we repeat our view that the Government should fund AUSTRAC's ongoing regulatory costs on the basis that the Government and its various agencies benefit most from AUSTRAC's regulatory oversight activities.

General comments on the documents

With the introduction of the supervisory levy it has been necessary to determine whether liability for the levy rests with the trustee of a superannuation trust or with the trust itself.

We have recently been advised by AUSTRAC that it is its view that for the purposes of Items 40, 41, 42 and 43 in Table 1 of Section 6 of the AML/CTF Act it is the trustee, not the trust, that is the reporting entity.

Our responses in the remainder of this document reflect that view.

Information proposed to be collected under mandatory enrolment

Enrolment information pertaining to general business information

ASFA suggests that a wording change is necessary to provide clarity about the requirement to provide 'the full street address at which the reporting entity provides designated services' in circumstances where designated services are provided at more than one location.

At the top of page two is a requirement to describe an entity as being one of a number of listed entities. Consistent with the AUSTRAC advice, ASFA requests that the type 'trustee of a trust' be included in the list.

Enrolment information pertaining to cost recovery levy

Second dot point: Information is required as to whether an entity is a 'non-employing or micro business'. Clarity is required as to the meaning of 'non-employing'.

Ninth dot point: The requirement is to provide the full name and address of 'if the reporting entity is a trust - the trustee'. This item needs to be better set out to reflect the AUSTRAC view that a superannuation trust is not a reporting entity. Absent the additional clarity, AUSTRAC may inadvertently be provided with information that it does not require for the purpose of administering the levy.

Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2011

ASFA has no comments to make on the draft determination but notes that, with respect to designated service items 40, 41, 42 and 43, the levy is to be determined with relation to the business activities of the trustee.

Draft privacy Impact Statement

ASFA has reviewed the document and has no comments to provide beyond noting the comment made above about providing clarity so as avoid the collection of information that is not required for the purpose of administering the levy collection process.

* * * * *

If you have any queries or comments regarding this submission, please feel free to contact Jon Echevarria, Policy Adviser on 02 8079 0859 or by email jechevarria@superannuation.asn.au.

Yours sincerely,



David Graus
General Manager, Policy and Industry Practice