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### Cost Recovery

Australian Transaction Reports and Analysis Centre  
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## COST RECOVERY IMPACT STATEMENT - EXPOSURE DRAFT (MAY 2012) ANTI-MONEY LAUDERING AND COUNTER-TERRORISM FINANCING REGULATORY ACTIVITIES

The Association of Superannuation Funds of Australia (ASFA) would like to provide the comments below in relation to the exposure draft on the Cost Recovery Impact Statement (CRIS) issued by the Australian Transaction Reports and Analysis Centre (AUSTRAC) for the regulatory period 1 July 2012 to 30 June 2013.

### About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to advance effective retirement outcomes for members of superannuation funds through research and advocacy. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds as well service providers some of whom deal with self managed superannuation funds (SMSFs), has over 90% of the approximately 12 million Australians with superannuation as members. ASFA is the only organisation that represents all types of superannuation funds and associated service providers.

### Calculation of the large entity component

We note that the applicable earnings measure for all institutions other than authorised deposit taking institutions, banks, building societies and credit unions is earnings before income tax expense, net financing costs, depreciation and amortisation (EBITDA).

As stated in our letter dated 23 January 2012, following ongoing discussions between ASFA and AUSTRAC regarding the calculation of the large entity component by superannuation funds, we received written confirmation from AUSTRAC in November 2011 that:

*"It is AUSTRAC's view that the trustee is the legal entity that is entered on the RE Roll. On this basis the earnings of the trustee company are to be used. This approach will be supported by the final version of the Ministerial Determination."*

Although we understand that trustees of superannuation funds have been using the EBITDA of the trustee not the trust (i.e. the superannuation fund) as the applicable measure for the purposes of determining whether they are liable for the large entity component, AUSTRAC's view, as outlined above was not explicitly reflected in the final version of the Ministerial Determination for the 2011-12 regulatory period.

To minimise the potential risk of misinterpretation or confusion, ASFA again seeks legal clarity on behalf of the industry confirming that, from a superannuation perspective, it is the trustee's earnings, not the earnings of the trust, which should be used in the calculation of the large entity component. We recommend that this position be made clear in the Ministerial Determination for the 2012-13 regulatory period or by way of a separate formal statement by AUSTRAC.

#### Opposition to the recovery of AUSTRAC's regulatory costs from reporting entities

In previous submissions to AUSTRAC we have expressed our strong opposition to the Government's policy to recover AUSTRAC's regulatory costs from reporting entities. We do not intend to restate the reasons behind ASFA's position again in this submission. However we feel it is appropriate to again draw your attention to these prior submissions which contain, in detail, the reasons behind our objections to the AUSTRAC levy, and to advise that ASFA will be taking up the matter of the AUSTRAC levy as well as other industry levies directly with Government.

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If you have any queries or comments on this submission, please feel free to contact Jon Echevarria, Senior Policy Adviser on 02 8079 0859 or by email [jechevarria@superannuation.asn.au](mailto:jechevarria@superannuation.asn.au).

Yours sincerely,



Margaret Stewart  
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