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Manager  
Benefits and Regulation Unit  
Personal and Retirement Income Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [StrongerSuperSuperStream@treasury.gov.au](mailto:StrongerSuperSuperStream@treasury.gov.au)

Dear Manager,

## **SUPERANNUATION DATA AND PAYMENT STANDARDS: ENABLING SERVICES**

The Association of Superannuation Funds of Australia (ASFA) would like to provide this submission with respect to the call for comments on the above exposure draft of legislative amendments to support the superannuation data and payment regulations and standards and on the accompanying explanatory material.

### **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.

### **General comments**

ASFA supports the proposed amendments as it considers the provision of enabling services to be essential for the effective implementation of the superannuation data and payment standards. Having reviewed the exposure draft, we consider that they will be effective in creating the legislative framework within which the enabling services can be established.

We note that the cost of providing these enabling services will be met through the SuperStream Levy which is being imposed on all APRA regulated superannuation funds. In this context ASFA would like to raise its concerns about the lack of transparency over the actual costs of the various components of SuperStream and the allocation of all of the costs to APRA regulated funds. On transparency, the most detailed information about the costs of these enabling services is contained in the ATO document *SUPERSTREAM – making the superannuation system easier to use*. The document states that provision of the validation services will cost \$60 million (\$57

million in IT costs and \$3 million in non-IT costs. ASFA considers that this level of detail is insufficient to enable the industry, which is paying for the delivery of two separate services, to understand where the actual costs lie.

Separately we note that one of the enabling services will be used to enable employers to check the personal information provided to them by employees. ASFA would argue that, whilst this service will assist superannuation funds, it will also assist employers and deliver benefits to the Government with respect to the accuracy of tax-related employment information. In this context, ASFA questions the reasoning behind the totality of the development costs being levied against APRA regulated superannuation funds with no component being recovered from employers and self-managed superannuation funds or carried by the Commonwealth despite those parties benefiting from the service.

## **Specific comments**

### **Legislation**

#### *Section 34ZA Information not on register to be provided within 1 business day*

Section 34ZA provides a mechanism to enable an entity seeking information about another entity that should be, but is not, on the register to directly seek the required information from that other entity. The timeframe for a response to such a request is that 'the required information must be provided to the requiring entity within one business day of receipt of the notice'.

The wording of this provision, and specifically the use of the words 'particular information' in paragraph 34ZA(1)(a) indicates that the provision is targeted at addressing the situation where the information about a particular entity is incomplete.

In the context of the business purpose of the register and its use to assist entities in meeting statutory obligations ASFA can appreciate the requirement for any missing information to be provided expeditiously. However given the exceedingly tight one day turnaround this raises two issues where clarification is required: When is the request 'received' and when has the required information been provided?

Is the request 'received' when it arrives, or would normally be expected to have arrived, at the published address of the Trustee of the entity?

Has the information been provided when it is despatched to the return address on the request or when it arrives at that address?

Both of these matters need clarification in the Explanatory Memorandum (EM).

Additionally, what is the source of truth for the address of the trustee the request is being sent to? ASFA suggests that the source of truth regarding the address of the trustee should be the APRA register of RSE licensees for APRA regulated funds and otherwise the ATO's register of SMSFs.

ASFA considers that for large organisations a 1 day turnaround is unrealistic and that, given that failure to meet the requirement is a strict liability offence with a penalty of 25 units, that three to five business days might be more appropriate.

Additionally, given the perceived urgency of such a request, consideration may need to be given to imposing a requirement that trustees make available an electronic address for the service of such notices.

Separately, ASFA notes that the Explanatory Memorandum (EM), at paragraphs 1.35 and 136, describes section 34ZA as addressing the situation where the register provided by the Commissioner is unavailable. This does not appear to accord with the wording, or the heading, of that provision. If the section is supposed to serve a dual purpose of both unavailability of service and missing information then ASFA considers that the provision does not achieve both and that consideration be given to including a separate provision to deal specifically with unavailability of service.

ASFA suggests that this conflict between the EM and the legislation be examined and resolved.

*Section 299TD Validation notice – beneficiaries of eligible superannuation funds*

This section deals with the circumstances under which the Commissioner may issue a notice validating information supplied by a trustee.

ASFA is pleased to note the clarification that where the Commissioner is unable to validate the information such notice is not considered to be a notice under section 299TB.

*Item 19: Section 299TC*

This provision refers to a ‘regulated exempt public sector superannuation scheme’. ASFA requests that the word ‘regulated’ be omitted as an exempt public sector superannuation scheme is, by definition, not a regulated entity.

If the intention is to capture specific types of exempt public sector schemes, such as those that are subject to income tax, then words appropriate to that class of scheme should be employed.

Separately, ASFA notes that this provision appears to operate so as to override a decision of a member to not provide their TFN to a specific scheme of which they are a member. ASFA seeks clarification as to whether a trustee must record the TFN or whether they may ignore the notification where the member has specifically directed the trustee to not record their TFN.

***Explanatory memorandum***

*Paragraph 1.17*

As per the above *Item 19: Section 299TC* the fourth dot point in this paragraph also refers to ‘regulated exempt public sector superannuation schemes’. ASFA requests that the word ‘regulated’ be omitted as an exempt public sector superannuation scheme is, by definition, not a regulated entity.

If the intention is to capture specific types of exempt public sector schemes, such as those that are subject to income tax, then words appropriate to that class of scheme should be employed.

*These Paragraphs 1.35 and 1.36*

These paragraphs deal with the electronic register not being available and refer to Section 34ZA.

Paragraph 1.35 says that ‘If the register provided by the Commissioner is unavailable, a Superannuation entity, RSA provider or employer may request an eligible superannuation entity to provide information contained on the register about the entities’ electronic details through a written notice.

However, the legislation, at subsection 34ZA(1), states that the trigger to the request is where ‘an entity requires particular information’ and ‘the required information is not available to the requiring entity on the register kept by the Commissioner ...’

This wording suggests that the test is that the information on the register is incomplete, not that the register is unavailable.

ASFA requests that this conflict between the EM and the legislation be examined and resolved.

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If you have any queries or comments regarding the contents of our submission, please contact our principal policy adviser, Robert Hodge on (02) 8079 - 0806 or via e-mail to [rhodge@superannuation.asn.au](mailto:rhodge@superannuation.asn.au).

Yours sincerely  
Margaret Stewart



General Manager, Policy and Industry Practice