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Mr Stuart Forsyth
Assistant Commissioner
Funds Segment Superannuation
Australian Taxation Office
229 Adelaide St
BRISBANE QLD 4000
Email: stuart.forsyth@ato.gov.au

Dear Mr Forsyth,

Draft ATO Self-Managed Superannuation Funds (SMSFs) Valuation Guidelines

The Association of Superannuation Funds of Australia (ASFA) would like to provide this submission in response to the call for comments on the above exposure draft regulations and explanatory memorandum.

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 (SMSFs) and small APRA funds (SAFs) through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

General comments on the guidelines
Generally speaking ASFA welcomes the valuation guidelines and supports the Australian Taxation Office in its quest to provide clear and concise guidance to assist SMSF trustees and their advisers when valuing assets for superannuation purposes.

The general concern that ASFA has with the guidelines is that there appears to be no link between these guidelines and the proposed re-write of the Australian Accounting Standard (AAS) 25 *Financial Reporting for Superannuation Plans*. The proposed replacement standard to AAS 25 is currently encapsulated in Australian Accounting Standards Board (AASB) Exposure Draft (ED) 223 *Superannuation Entities* where the proposed valuation method for superannuation funds will be fair value. The ATO guideline on the other hand refers to net market value as heralded by the Stronger Super reforms.

Since a significant proportion of SMSF advisers are in fact accountants a consistency between the accounting standards and the ATO valuation guidelines would be desirable.

ASFA also recommends that the guide should make some comment in relation to valuation of units in a widely held trust, such as a managed investment scheme. For example, similar to section 7.3 for listed securities, the guide should include some comment confirming that the value of the units in a widely held managed investment fund should be based on the published exit price for the relevant day.

Further to this the guide should also confirm that the published exit price for a widely held trust, such as a managed investment scheme, that has been calculated in accordance with the APRA and ASIC *Unit Pricing - Guide to Good Practice* constitutes an independent valuation for the purposes of satisfying proposed off market transfer requirements.

Specific comments

The reference numbers used below are those from the draft guidelines.

2.2 Confirmation of fund's compliance with super law

Paragraph 4 lists as a reason for valuing assets as being able to determine a member's pension account balance so as to work out the minimum annual amount for a superannuation income stream and a maximum amount for a transition to retirement product. It also refers to the term "market value" by way of a reference to Schedule 7 of the *Superannuation Industry (Supervision) Regulations1994* (SISR). However, Schedule 7 has no mention of market value.

5.0 When to conduct valuations

The guide recommends that in the absence of any significant event that may impact valuations, real property should be formally valued every three years. Concern has been raised by ASFA members that this is unnecessary and expensive especially where a fund in the accumulation phase.

5.2 Calculation of pension account balance

The issue here is that if the trustee valuation is subsequently deemed to be incorrect, either through the calculated minimum being deemed too low, or the maximum (if applicable) having been calculated as higher than permitted, the result could be that the pension standards are not met.

ASFA's understanding is that this does happen from time to time but from a practical procedural perspective any error in the valuation is rectified the following 1 July once the accounts have been completed. On that point, the valuation cannot be 100% accurate in some instances, such as where a fund holds units in a unit trust, as tax statements will not be available.

ASFA's recommendation is that there is an acceptance that a "reasonable estimate" of the pension entitlement be used when a pension is started part way through the year. There is little risk of manipulation as only a portion of one year's pension is impacted. It would be helpful to practitioners if this could be expressed in the guidelines.

6.3 Net market value for reporting purposes

Some guidance on what level of costs would be considered material would assist; otherwise there will be a range of interpretations. If the trustee decision to exclude realisation costs is subsequently disputed, that can impact the pension standards. It could also lead to different interpretations between trustees and the auditor.

7.5 Investments without a ready market

ASFA notes and supports the ATO statement that any asset with no known value or potential for capital or income growth would not be considered a prudent investment. However, it needs to be pointed out that seemingly good and appropriate investments (at the time of the investment) could reach a position, because of certain factors, where there is no ready market or known value.

For example, the SMSFs who invested in Timbercorp Almond Plantations did so with the knowledge of a series of projected calculations of returns for the number of years the project was to run. When Timbercorp failed, the lot holders had no idea whether there was any value in their holdings or whether they could be transferred. If, at that point there was a need to value the investment, say at 30 June, the trustees would not know the value and there would not be a ready market.

A more general example covers a range of managed investments which, at the time of the global financial crisis, froze withdrawals and transfers. Because of the doubt as to the value of the underlying investments, there was neither a current value nor ready market in many instances.

Whilst agreeing with the thrust of the ATO comments ASFA recommends that the statement be amended to accept the reality of investment risk.

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We thank you for providing us with the opportunity to make this submission and to participate in the consultation process.

If you have any queries or comments regarding the contents of our submission, please contact Tony Keir, Policy Communications and Reporting Manager on (02) 8079 0815 or by email tkeir@superannuation.asn.au

Yours sincerely
Margaret Stewart

General Manager, Policy and Industry Practice