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Draft Australian Privacy Principles (APP) Guidelines – first tranche

ASFA considers that the first tranche of the draft *Australian Privacy Principle Guidelines*, covering the 'general matters' and Australian Privacy Principles ("APPs") 1 to 5, provides clear and useful guidance for organisations as they move toward compliance with the privacy reforms. However, ASFA is concerned that the consultation on the guidelines is still at a preliminary stage, with less than six months until the commencement of the reforms.

ASFA's submission focussed on the particular impacts of the draft Guidelines on the superannuation industry, in which large volumes of personal information are required (directly or indirectly) by law to be collected, used and disclosed as part of the administration of members' superannuation monies. ASFA's recommendations included:

- Recognising that in some cases it may be appropriate to obtain 'bundled consent' to the collection, use and/or disclosure of personal information;
- Acknowledging that there will be situations where one entity collects an individual's personal information from another entity, and that other entity may have provided the individual with the required notification regarding the collection of that information;
- Recognising that an entity may presume that an individual has the capacity to consent to the collection, use and/or disclosure of their personal information, in the absence of indications to the contrary;
- Clarifying the intended operation of new rules around the use of recognised external dispute resolution schemes in the handling of privacy complaints;
- Clarifying the meaning of 'Australian law', and in particular whether it would cover instruments such as electronic reporting specifications issued by the Australian Taxation Office, which are made under legislation but are not 'legislative instruments' within the technical meaning of that term;
- Providing guidance around what the Commissioner considers to be an appropriate length for a privacy policy (in light of the need to balance new, prescriptive rules regarding content of privacy policies against recent comments by the Commissioner that current policies are too long and complex);
- Providing specific guidance on compliance with the APPs for entities who utilise cloud computing services;
- Recognising that in highly regulated industries such as superannuation, it may be reasonable to use generic, descriptive terms rather than specifically identify to an individual, in the collection notification, the specific Australian law(s) which require(s) or authorise(s) the collection of personal information.