Chapter 2

Overview of the Bill

2.1 As noted at the start of the preceding chapter, the Bill makes amendments to the Banking Act, FHSA Act, Life Insurance Act, SUMLM Act, ASIC Act and Corporations Act to give effect to the unclaimed moneys measures announced in the 2012-13 MYEFO.

2.2 The amendments in the Bill will commence the day after the Act receives the Royal Assent.

Schedules 1, 2 and 3 – Bank Accounts, First Home Saver Accounts and Life Insurance Policies

2.3 Schedules 1, 2 and 3 to the Bill amend, respectively, the Banking Act, the FHSA Act and the Life Insurance Act.

2.4 Under current arrangements, authorised deposit-taking institutions (ADIs) are required to transfer to ASIC bank account moneys where there has not been a deposit or withdrawal for seven years. FHSA providers are also required to transfer FHSA moneys to ASIC where the account has been inactive for seven years. Similarly, life insurance moneys must be transferred to ASIC within seven years of the money becoming payable (such as when a policy matures).

2.5 The amendments reduce from seven years to three years the period of inactivity before banks accounts, FHSAs and life insurance moneys are treated as unclaimed.

2.6 As a transitional measure, the Bill provides for an extension from 31 March 2013 to 30 April 2013 on the deadline for ADIs and life insurance providers to report on, and transfer to the Commonwealth, unclaimed bank account and life insurance moneys as at 31 December 2012.

2.7 As is currently the case, under the new arrangements details of unclaimed moneys will be published by ASIC and can be searched via the ASIC website. Owners of unclaimed moneys will continue to be able to lodge a claim for the return of their money at any time through funds appropriated by Parliament for that purpose.

2.8 According to the Treasury's submission to the inquiry, by bringing forward the time in which money is recognised under the relevant law as lost or unclaimed, and thereby bringing forward the time when details of this money is published in publicly searchable databases, the measures will help reunite people with their money sooner.[1]

2.9 Currently, no interest is payable on reclaimed moneys. The amendments will allow for the payment of interest on unclaimed moneys from 1 July 2013. The interest

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1 Department of the Treasury, *Submission 10*, p. 3.

rate will be determined by regulations, and is intended to be equivalent to CPI. This will ensure that unclaimed moneys maintain their real value.

Schedule 4 – Superannuation

2.10 Schedule 4 to the Bill amends the SUMLM Act to change the circumstances in which small lost member accounts and accounts of unidentifiable members must be transferred to the ATO, and to provide for the payment of CPI interest on unclaimed superannuation money.

2.11 The amendments will increase the account balance threshold below which accounts of lost members are required to be transferred to the ATO from $200 to $2000.

2.12 The definition of a 'lost member' is set out in the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations). The current regulations define a member of a fund as a lost member if:

(a) the member is uncontactable – that is, the provider has never had an address for the member, or two written communications to the member (or one written communication if the trustee so chooses) has been returned to the provider unclaimed; or

(b) the member's account has not been active for five years.[2]

2.13 The policy rationale for this change is that transferring small lost member accounts to the ATO would protect these accounts from being eroded over time by fees and charges. As the Parliamentary Secretary to the Treasurer explained in his second reading speech, these fees and charges typically exceed average investment earnings on small accounts, even for accounts with $2000.[3]

2.14 The amendments will also decrease the period of inactivity before accounts of unidentifiable members must be transferred to the ATO from five years to 12 months. Accounts of unidentifiable members are accounts where the provider is satisfied 'that it will never be possible for the provider, having regard to information reasonably available to the provider, to pay an amount to the member.'[4] These accounts, according to the Parliamentary Secretary's second reading speech, 'represent only a tiny proportion of superannuation—in fact, less than 0.1 per cent.'[5]

2.15 According to the Parliamentary Secretary, the reduced period of time for which an account of an unidentifiable member can be held will 'encourage funds to

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2 *Superannuation Industry (Supervision) Regulations 1994*, Regulation 1.03A. Available at http://www.comlaw.gov.au/Details/F2012C00564.

3 The Hon Bernie Ripoll MP, Parliamentary Secretary to the Treasurer, *Proof House of Representatives Hansard*, 30 October 2012, p. 54.

4 Explanatory Memorandum, p. 17.

5 The Hon Bernie Ripoll MP, *Proof House of Representatives Hansard*, 30 October 2012, p. 54.

collect sufficient information to identify members during the period when contributions are being made.'[6]

2.16 As reported in a joint press release by the Minister for Financial Services and Superannuation, the Hon Bill Shorten MP, and the Assistant Treasurer, the Hon David Bradbury MP, the ATO already has in place a number of strategies to help reunite members with their lost superannuation accounts. ATO programs, such as SuperSeeker, helped to reunite people with around 1.1 million lost and unclaimed superannuation accounts worth $3.2 billion in 2011-12. This was the first time that the amount of lost and unclaimed super has declined over the course of a financial year, after reaching a peak of almost $21 billion as at 30 June 2011. However, there are still around 6.1 million lost and unclaimed accounts, with a value of around $17.7 billion.[7]

2.17 Currently, no interest is paid on unclaimed superannuation moneys. The Bill provides for the payment of interest on unclaimed superannuation from 1 July 2013. The interest rate will be determined by regulations, and is intended to be equivalent to the CPI. This is intended to preserve the value of unclaimed superannuation over time and further boost individuals' retirement savings.

Schedule 5 – Corporations

2.18 Schedule 5 of the Bill amends the Corporations Act and the ASIC Act to close CUMSA and establish new processes for the receipt and payment of unclaimed property (including unclaimed moneys) arising under the Corporations Act.

2.19 Currently, ASIC credits unclaimed moneys under the Corporations Act to CUMSA upon receipt. Similarly, other unclaimed property is sold or disposed of by ASIC, and the proceeds are credited to CUMSA. The funds are held in CUMSA for six years, after which the funds are debited and recognised in the Commonwealth Consolidated Revenue Fund.

2.20 The Bill will close CUMSA, and allow for unclaimed property to be recognised directly in the Consolidated Revenue Fund upon receipt by ASIC.

2.21 As is currently the case, claimants of unclaimed property will continue to be able to claim and receive the return of their property currently or previously held by ASIC on behalf of the Commonwealth.

2.22 Currently, no interest is paid on unclaimed property arising under the Corporations Act. The Bill provides for the payment of interest on unclaimed property from 1 July 2013. Once again, the interest rate will be determined by regulations, and is intended to be equivalent to CPI.

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6 The Hon Bernie Ripoll MP, *Proof House of Representatives Hansard*, 30 October 2012, p. 55.

7 The Hon Bill Shorten MP and the Hon David Bradbury MP, *Amount of Lost and Unclaimed Super Falls for the First Time*, 29 October 2012, http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2012/071.htm&pageID=003&min=brs&Year=&DocType=0.