

Australian Institute of Superannuation Trustees



5 April 2013

The Committee Secretary
House Standing Committee on Economics
The Treasury
Parliament House
CANBERRA ACT 2600

Email: economics.reps@aph.gov.au

Dear Sir/Madam,

Re: Inquiry into the Tax and Superannuation Laws Amendment (2013 Measures No. 2) Bill 2013

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia's \$500 billion not-for-profit superannuation sector. AIST's members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

AIST commented on previous drafts of sections of this Bill and welcomes the opportunity to provide a submission to the Committee on this Bill. In this submission, we will only be commenting on Schedules 5 and 6 and will not be commenting on the remaining measures contained in the Bill.

Schedule 5

AIST supports the creation of an additional condition upon superannuation trustees to require the merger of multiple accounts where this is in a member's best interests. AIST further supports the requirement that this be done by means of requiring the establishment of specific rules. Furthermore, we welcome the detail given in the proposed section 108A(4) that explicitly requires trustees to consider fees, charges and whether the consolidation of a member's accounts is in that member's best interests.

We welcome the definition contained within the proposed section 108A(3) of a 'superannuation account'.

However AIST has some further comments to make with regards to Schedule 5. We make these comments with a view to improving this legislation.



Fees, including buy-sell spreads

We are concerned at the carve out of buy-sell spreads that is proposed at section 108A(1)(d). The reason for buy-sell spreads is to address the transactional costs associated with money moving in or out of investment options where the money is ultimately the flow into or out of underlying investments.

Where a member's accounts are consolidated and the member is in identical investment options in each account, as well as before and after consolidation, this flow of money into or out of the underlying assets simply should not occur. It would be absurd for this to be available to funds as an additional source of revenue. We recommend that this carve-out be removed, unless there are good grounds for moving the member's money into a different investment option.

Insurance and other considerations

AIST supports the general intent of merging superannuation accounts, where it is in a member's best interests. We are, however, very concerned that the focus on insurance appears to be one-sided. At section 108A(4), trustees are directed to consider the effect of insurance premia in addition to fees and charges when considering what is in the best interests of the member, however, there is no corresponding requirement to consider the level of insurance coverage. Given that underinsurance is a well-documented problem affecting Australians across the board, we recommend that additional consideration be explicitly given to this part of insurance, as well as any other benefits that may be affected in the event of the merging of accounts.

Tax data

One of the changes in 2007 removed the right of superannuation members to choose the tax component that they could draw benefits from. A number of members of superannuation funds were advised prior to that date to move tax-free or significantly tax-free amounts into separate accounts to preserve these monies tax-free status for a variety of reasons.

An ability to mix these monies has the potential to remove advantages to members that would not necessarily be apparent to superannuation trustees. An example of this would have been where a member had quarantined tax-free amounts in one account and taxable amounts in another with different estate planning intentions.

In a situation such as the paragraph above, acting in what a trustee may believe to be the member's best interest may be contrary to the member's intentions. We consider it vital that an example be included at paragraph 5.27 of the explanatory memorandum (EM) where monies may have been split in such a way. Such an example would be excellent in further illustrating the importance of providing members with a significant interest with an 'opt-out'.



“Not practicable” exemption

The proposed section 108A of the SIS Act sets out various elements in a trustee’s duty to identify multiple interests of members in a superannuation entity.

However, proposed subsection 108(2)(a) states that the requirement to merge multiple accounts if the trustee believes that it is in the best interests of the members to do so does not apply “if it is not practicable in the circumstances to merge the member’s superannuation accounts”.

AIST submits that it is not a good policy position for a lack of practicality to displace a measure that is in a member’s best interest and thus recommend that that the proposed subsection 108A(2)(a) be deleted. Although we welcome the discussion around hybrid scheme accounts such as those at paragraph 5.29 of the EM as some welcome clarification, we are not convinced that such a situation would necessarily be impracticable. Further, we agree that the dot points at paragraph 5.30 of the EM will be valuable in determining what might be considered impracticable; however, we believe that the following should also be included in this paragraph:

- Accounts considered for merger are located on different IT platforms; or
- Not being prepared to use available tools for the identification of possible multiple accounts (e.g., forthcoming ATO Member Identity Verification Services).

Consent, privacy and disclosure

We welcome the consideration given in paragraphs 5.43 through to 5.47, as well as at example 5.3. We agree that where account holdings are significant, it is more important that members are advised of pending consolidations.

We also welcome the comments regarding the circumstances by which such a consolidation becomes a significant event, as well as acknowledging the existing requirements for member notification. We consider this to be particularly important with regards to insurance coverage. AIST supports the view that consent is not generally required but does support the need for member notification where this is possible and appropriate.

Schedule 6

AIST does not support the reduction in the co-contribution. However, we are sympathetic towards Government’s aims that were elucidated in the 2011-12 MYEFO statement.

We also welcome the statement in paragraph 6.8 of the EM where it reiterates the implementation of the Low Income Superannuation Contribution (LISC) from the 2012-2013 financial year onwards. While we welcome the LISC, we point out that the implementation of LISC was to correct a historical inequity, and encourage a long term consideration to build the co-contribution back up again.

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AIST does not support the suspension of indexation on the thresholds, as this does not take into account reductions in purchasing power due to inflation.

Yours sincerely,

Tom Garcia
Chief Executive Officer