

CORPORATE SUPER ASSOCIATION

The Manager
Retirement Income and General Rules Unit
The Treasury
Langton Crescent
CANBERRA ACT 2600

By e-mail to superannuation@treasury.gov.au

7 September 2005

Dear Sir

DRAFT REGULATIONS REFINING THE DEFINITION OF INTERDEPENDENCY RELATIONSHIP

We refer to the draft regulations released for public comment on 17 May 2005 and provide comments as follows.

Proposed sub-regulation 1.04AAAA(2)

We believe that it would be helpful to clarify whether Reg 1.04AAAA(2) effectively replaces paragraph (d) of SIS Act s 10A(1) by paragraph (b) of Reg 1.04AAAA(2). We also believe it would be helpful to clarify whether Reg 1.04AAAA(3)(c)(ii) is intended to modify or replace section 10A(2)(c) of SIS.

1 July 2004 operative date

We note that the new regulations would provide that an interdependency relationship can be recognised under the SIS Act only where the death of one party occurred after 30 June 2004. This gives rise to concern for trustees who in good faith acted on SIS Act 10A's application provision ("applicable to the doing of things on or after 30 June 2004"), and at some time on or after 30 June 2004 distributed death benefits relating to a party who died before 1 July 2004 to a person whose dependency would not be recognised other than under the interdependency definition. We believe that these trustees would potentially be exposed to additional death benefit claims from dependents and penalties for breaches of the SIS Act.

John Cann or I would be happy to discuss. Our contact numbers appear below.

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Yours faithfully

Elizabeth Goddard
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Corporate Superannuation Association