

CORPORATE SUPER ASSOCIATION

General Manager
Regulatory Policy
Australian Transaction Reports and Analysis Centre
P O Box 5516
West Chatswood NSW 1515

20 September 2007

Dear Sir/Madam

APPLICATION FOR EXEMPTION FROM APPLICATION OF THE AML/CTF ACT FOR SINGLE EMPLOYER SPONSORED CORPORATE SUPERANNUATION FUNDS

1 Background: information about the applicant

The Corporate Superannuation Association represents some thirty major not-for-profit corporate superannuation funds and their corporate sponsors. These funds are most of the largest funds in the corporate fund sector. The assets of Association members amount to approximately \$56 billion, representing about 58% of total corporate superannuation sector assets in Australia. In general, the funds are sponsored by corporate employer sponsors with membership restricted to employees from the same holding company group.

The close connection with the contributing employers is a key characteristic of the funds in our Association. New entrants cannot join our funds unless they are employees of the employer-sponsor, or spouses of employees.

2 Section under which application is being made and provisions in relation to which exemption is being sought

The Association is seeking exemption under section 248 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 ("AML/CTF Act") from the application of subsection 84(3) of the AML/CTF Act, and Rules for the purposes of that subsection, for corporate employer-sponsored funds where the sponsor is a single employer or employer group. The exemption or modification we are seeking would enable the funds to comply with the AML/CTF Act by implementing Part A requirements under subsection 84(2) and Chapter 8 of the AML/CTF Rules.

3 Description of the relevant designated service

The designated services are Items 40 to 43 in Table 1 at section 6 of the AML/CTF Act, and relate to the acceptance of superannuation contributions and of purchase price of a pension, and the payment of lump sum and pension benefits:

CORPORATE SUPERANNUATION ASSOCIATION Inc. ABN 467 615 800 25
Level 6, Suite 6, 470 Collins Street, Melbourne, Victoria 3000, Australia
Telephone: 03 9620 5155 Fax: 03 9620 5122 Email: corsuper@netspace.net.au

CORPORATE SUPER ASSOCIATION

40	in the capacity of provider of a pension or annuity, accepting payment of the purchase price for a new pension or annuity, where: (a) the provider is not a self managed superannuation fund; or (b) the pension or annuity is provided in the course of carrying on a business of providing pensions or annuities	the person to whom the pension or annuity is to be paid
41	in the capacity of provider of a pension or annuity, making a payment to a person by way of: (a) a payment of the pension or annuity; or (b) an amount resulting from the commutation, in whole or in part, of the pension or annuity; or (c) the residual capital value of the pension or annuity; where the provider is not a self managed superannuation fund	the person
42	in the capacity of trustee of: (a) a superannuation fund (other than a self managed superannuation fund); or (b) an approved deposit fund; accepting a contribution, roll-over or transfer in respect of a new or existing member of the fund	the member
43	in the capacity of trustee of: (a) a superannuation fund (other than a self managed superannuation fund); or (b) an approved deposit fund; cashing the whole or a part of an interest held by a member of the fund	the member, or if the member has died, the person, or each of the persons, who receives the cashed whole or a cashed part of the relevant interest

4 Description of the circumstances in which the relevant designated service is provided

Item 40

It is unusual for corporate employer-sponsored funds to accept large one-off contributions from the employee to fund a pension, but technically this situation can arise where the fund offers

CORPORATE SUPER ASSOCIATION

pensions that are purchased with lump sum benefits. There is generally no new capital inflow from external sources.

Item 41

A corporate employer-sponsored fund may pay a pension to a member or may pay the member a lump sum amount that is the commuted amount of the pension.

Item 42

Corporate employer-sponsored funds accept contributions (pre-tax) from the employer. These contributions are made under arrangements prescribed in the fund's deed and are generally those recommended by the fund's actuary as required to support defined benefits, or accumulation contributions as contracted between the employer and employee.

Corporate employer-sponsored funds accept contributions from the employees (post tax) where the funding arrangement for defined benefits require some member support, or where the fund can otherwise accept post tax contributions from employees. Sometimes these contributions are made to spouse accounts because of certain associated tax concessions. In our funds these contributions are minor amounts.

Corporate employer-sponsored funds will generally accept roll-overs from other funds where the employee has joined from another employer or where the employee wishes to consolidate benefits.

Item 43

Corporate employer-sponsored funds pay lump sum benefits to members, or make other benefit payments to dependants or to the member's estate, as permitted under the fund's deed.

Retained benefits

For completeness' sake we note that our funds are gradually increasing the extent to which they permit members to retain their benefits in the fund after leaving employment and pending further decisions about withdrawing benefits. The retained benefits can be augmented through consolidation of benefits from other funds and /or through member undeducted contributions. We understand that activity in this area is minor at present and note also that the consolidated benefits arise from amounts that have already been subject to scrutiny and monitoring. Large inflows of undeducted member contributions have always been rare and these are also now effectively limited as a result of Simpler Super reform.

5 Why the exemption is being sought

As indicated at (1) above, our Association represents a group of superannuation funds that, in the main, have single sponsors (or sponsors from a single group of companies). We have one fund that is supported by a small group of employers involved in a specific industry. Hence, our funds, and similar corporate employer-sponsored funds whose membership is restricted to a single corporate group, are dealing with a restricted section of the public. This is a situation which places them in contrast with most industry funds and public offer and retail funds.

CORPORATE SUPER ASSOCIATION

Public offer and retail funds, and large industry funds dealing with a large number of disparate employers and employer groups, receive contribution inflows of irregular amounts from many different sources. Some inflows take the form of superannuation guarantee minimum or contracted employer support. Other amounts can be one-off or irregular amounts of salary sacrifice payments. Other inflows come directly from individuals and may represent support for the contributing individual or for another person, related or otherwise. These amounts are not predictable and may quite legally emanate from almost anybody. The contributions may well not come from an individual previously identified to the fund. Hence, the need for member identification by the fund, and monitoring of unusual transactions, is well understood.

By contrast, our funds are closely associated with the sponsoring employers. The membership is generally restricted to employees of the employers, and the spouses of these employees. In addition, the inflows to the fund on behalf of the members are largely predictable. These are contracted (or agreed) employer and member contributions, salary sacrifice following protocols established by the employer, and spouse support.

The process of engaging an employee, as a matter of process, involves checking of references, and collecting personal information, including the employee's full name, date of birth and residential address. This data conforms with the Part B requirements set out at Part 4.2 of the AML/CTF Rules in relation to section 84(3) of the AML/CTF Act. As part of this process the information is typically verified by reference to documentation as required under Part 4.9 of the AML/CTF Rules.

General framework under subsection 84(2) of the AML/CTF Act (Part A)

We recognise that given the above background our funds will have little difficulty with developing a general framework for an AML/CTF program. We believe that the general framework requirements can be built into our funds' risk management processes.

We believe that this procedure will enable our funds to manage any risk of use of the funds for money laundering or terrorism financing.

Customer identification and verification- subsection 84(3) (Part B)

We have greater concerns with the proposed Customer Identification and Verification requirements. This is not because we would be unable to access the information, but because we believe that it would involve unnecessary duplication of work. Given the background above, we can rely on appropriate identification and verification of the members of our funds under employment procedures. You will be aware that the customer identification and verification rules are accompanied by some considerable compliance requirements, following a path which treads a tightrope between appropriate compliance and invasion of privacy, requiring extreme care in implementation. We are not opposed to following necessary compliance procedures, but we do believe that the proposals would involve our funds on additional processes which would impose additional costs without any particular increase in protection or any other benefits.

We note that the new requirements from 1 July 2007 that employers pass on newly quoted tax file numbers from employees to funds will enhance the existing information link between sponsoring employer and fund.

CORPORATE SUPER ASSOCIATION

6 Assessment of the level of money laundering and/or terrorism financing risk faced in relation to the provision of designated services by corporate funds

We have considered this matter in general and in relation to each of the designated services.

In general

Superannuation is generally a long term savings medium and as a result has reduced risk of being used as a medium for money laundering or for other covert purposes where short term access would be attractive. We note that there could be some hazard where the beneficiary is approaching a time where unrestricted access to cash would be possible. However, where the inflows are controlled (as in the typical single employer-sponsored fund) as a result of the contribution structure, we do not see a risk.

Item 40: pension purchases

As indicated above we observe that purchase of pensions from corporate funds using resources other than those arising from regular contributions is unusual. Hence we do not see risk arising from unusual cash inflows for this purpose as arising in the normal course of events.

Item 41: pension payments

Pension payments will be made either to members whose identity is already established, or to the spouse or under age children of a member. The process of paying pensions to reversionary pensioners is as a matter of due process subject to identification requirements by trustees. The process followed is designed to ensure that the intended payment is made to a person who is permitted under the deed and the law to receive a reversionary pension, and to ensure that the recipient is who he or she claims to be. Evidence of identity, supporting full name, date of birth, and address details are all typically required.

Item 42: contributions

The low level of risk in this area has been discussed at (5) above.

Item 43: lump sum benefits

Similar considerations apply to the payment of lump sum benefits to those applicable to pension payments, discussed in relation to Item 41. Lump sum death benefit payments can be made to a wider group of potential beneficiaries than can pensions, and hence consideration of claims of a number of dependants and other relatives may be required. Again it is standard process not to pay a benefit without solid evidence that the person is who he or she claims to be and that he or she has the relationship with the deceased that supports payment of the benefit. Full names, dates of birth and addresses will be required during this process and primary identification documents will be required to support these.

7 Impact on third party rights

We do not anticipate that the requested exemption or modification would impact on any third party rights.

CORPORATE SUPER ASSOCIATION

8 Contact details

Please let me know if you require further information from our organisation. I can be reached on 03 9620 5155 by e-mail corsuper@netspace.net.au, or at the postal address below.

Yours faithfully

Bruce McBain
Chief Executive Officer
Corporate Superannuation Association
Level 6, Suite 6
470 Collins Street
MELBOURNE VIC 3190
03 9620 5155