

CORPORATE SUPER ASSOCIATION

December 2008

General Manager
Personal and Retirement Income Division
The Treasury
Langton Crescent
Parkes ACT 2600

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

Submission: Superannuation Clearing House and the Lost Members' Framework

Dear Sirs

I refer to the Consultation Paper, *Superannuation clearing house and the lost members framework*, issued by the Government in November 2008. The Corporate Superannuation Association welcomes the opportunity to provide comments.

1 Background: the Corporate Superannuation Association

Established in 1997, the Association is the representative body of large corporate superannuation funds and their employer-sponsors. Its 25 members comprise over 46% of that sector's total assets and a significant proportion of defined benefit funds. These funds are most of the largest funds in the corporate fund sector. The assets of Association members amount to approximately \$34 billion, representing about 46% 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, but we also include in our membership a few multi-employer funds with similar employer involvement and focus to our stand alone member funds.

The Association provides the following comments in relation to the Paper and the proposals.

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2 Comments – clearing house

2.1 Single clearing house versus multiple provider model

We would support the alternative proposal involving AFSL licensed and ATO approved financial service providers as approved providers of the clearing house service, subject to the minimum service standards and reporting requirements proposed in the Paper.

2.2.1 Choice of Fund

In our view, it would be practical if the employer should continue to be required to provide the standard choice form under the same conditions as currently. The employer is in the best position to be aware of new employees to whom the requirements would apply.

If the employee wishes to exercise choice, he or she should then be required to return the form to the clearing house. We believe that if the employee has the choice between returning the form to the employer or to the clearing house this may introduce delays into the process and complicate matters for smaller employers.

We believe that once the clearing house has received a choice form, then there should be as short a period as is practical for implementation of the employee's wishes. The shorter the period, the less likely that the employer will have to create temporary accounts and insurance arrangements for new employees in default funds, pending implementation of the employee's choice. Under current arrangements when an employer receives a form from an employee, the employer has 2 months to implement the employee's choice. This time limit is very generous because it acknowledges the practical difficulties that may be encountered particularly by smaller employers. We believe that where an approved clearing house is involved many of these difficulties should not apply. We would support implementation within a much shorter period, subject to consultation with potential service providers in this area.

2.3 Superannuation guarantee obligations

Employers should be required to pay the Clearing House no later than 21 days after quarter end, and the clearing house to pay to the nominated fund within the next 7 days. Employers may find this difficult, but they are the key beneficiary from red tape reduction under the proposals, and the benefit gained should not result in a delay in the contributions reaching the employee's account. Penalties should apply to whichever party is responsible for delay in the process. Alternatively, if the measuring and allocation of delay particularly in respect of the clearing house's share is considered likely to be problematic, consideration could be given to monitoring service delivery standards by way of the AFSL licence process or via the ATO approval and monitoring process for the clearing house service.

The clearing house should be a one stop shop for all categories of contributions and the same standards should apply in relation to the processing of all contributions. Employers should be able to make contributions at any time (subject to SG requirements) and the clearing house should also pass these on within 7 days.

Uniform protocols should be encouraged but not mandated, since mandating of uniform protocols would be a cost burden to small employers.

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2.4 Regulatory framework

It is clear that there will be a role for the ATO in ensuring that Superannuation Guarantee obligations are met. However, the ATO should not be required to monitor the appropriateness of a clearing house's dealings with the public, or the prudential soundness of an institution. These appear to be appropriate areas for the involvement of ASIC and of APRA.

AFSL is a consumer licensing protection. We can see the advantages of regulation under the Corporations Act, as protections are provided in relation to conduct, deposit requirements, management of risk and dealing with disputes. However, we also have concerns about prudential risks involved for an organisation which may hold considerable sums on behalf of employees, albeit only temporarily. We are concerned about the potential effects of catastrophic systems failure and other operational risks. We envisage a need for hot site disaster recovery capability and appropriate IT. In this context we can see a role for prudential regulation by APRA, possibly through a variation on the approved trustee system.

2.5 Funding arrangements

Rather than providing a subsidy to the clearing houses, we would favour a subsidy to the small business user. This would be based on the actual charges made by the clearing house to the small user, subject to the user meeting parameters for assistance (number of employees, turnover).

The clearing house costs would be according to a standard schedule agreed between industry and the ATO. We would support the general proposition of a base amount per small employer and an amount related to the number of transactions.

We do not believe that the subsidy should be limited to fortnightly processing, as a number of small employers have weekly pay periods. Although we believe it is commonplace for such employers to contribute monthly to super, we would not wish to inhibit early forwarding of contributions.

We believe that there should be limits to the subsidy in terms of an overall subsidy period (we would suggest 3 years). It should also end in relation to individual employers once minimum employer scale has been reached, after which user pays should apply.

2.6 Other services

The clearing house should be responsible for cleaning data, given that the smaller employers likely to make use of the system would not have the resources for this process and it is a necessary administrative service. This would if necessary require an adjustment to the 7 day time-line for forwarding contributions to chosen funds.

As indicated below under 3.4, we would see a potential role for clearing houses in assisting with consolidation of lost member accounts. This role would probably assist only with active accounts but would provide some supplementary assistance in the process of consolidation of accounts.

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3 Comments – lost members

3.1 General principles

We believe that the priority should be on locating the member to whom a balance belongs, rather than on consolidation of balances. We recognise that for a member to have several small balances is inefficient, but the complexities associated with amalgamation of balances are considerable, whereas the task of locating a member should be becoming easier with improved identification procedures.

3.2 Lost member definition

We agree that a new definition of “lost” member is required which focuses on inability of the fund to contact the member. Inactive accounts should only become “lost” following reasonable efforts to contact the members concerned. We would support alignment of the SIS Act lost member definition with the Corporations Law “non-contactable” concept. Member Protection should then apply to all accounts that meet the new more rigorous definition.

3.3 Lost member reporting

We believe that reporting of members who are not contactable should be more frequent and up to date, with electronic protocols used for reporting as far as possible. The more widespread use of tax file numbers should assist. SIS Regulations should require trustees of all funds to take reasonable steps to minimise lost members, including requirements to follow standard procedures and guidelines and review of other data bases. In the context of AML/CTF “know your member” requirements, it should be easier to trace members.

3.4 Consolidation of accounts

We would be reluctant to transfer the burden of consolidation to a single employer. We would support some form of automatic consolidation by the ATO. We believe that the primary step needs to be the redefining of the lost member definition. Amounts that fit the definition could be transferred via a lost member clearing house within the ATO, or a contracted out central facility, perhaps making use of the clearing house facilities discussed in section 2 above. This lost members clearing facility would search for other matches with the TFN and address. After contact by the lost members’ clearing facility, if the person authorised the transaction, the clearing house would consolidate to a nominated account or a default account, but not otherwise. The ATO would provide each fund with the member’s known address. If the member elected not to consolidate or did not respond after this notification, member protection would be removed. The member should be warned of insurance risk and exit fees and told to seek professional advice before consenting to consolidation. If the lost members’ clearing house could not locate the member then the money would be transferred to the ATO lost money account under the existing rules for lost members.

Corporate superannuation funds would generally support a system such as the above where consolidation of accounts would proceed only where the member provided consent after appropriate warnings about insurance risk, exit fees and other hazards of account closure.

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Summary and conclusion

Please contact my office on +61 3 9620 5155 or by e-mail to corsuper@netspace.net.au if you would like to discuss the above.

Yours sincerely

A handwritten signature in black ink, appearing to read "Bruce McBain". The signature is written in a cursive style with a large initial "B" and "M".

Bruce McBain
Chief Executive Officer
Corporate Superannuation Association