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21 March 2014

General Manager
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By Email: thirdpartyreporting@treasury.gov.au
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Dear Nicholas

Improving tax compliance – enhanced third party reporting, pre-filling and data matching – Discussion Paper

The Australian Custodial Services Association (ACSA) welcomes the opportunity to provide this submission to Treasury on the issues raised in the Discussion Paper on *Improving tax compliance* released in February.

About ACSA

ACSA is the peak industry body representing members of Australia's investment custodial and administration sector. Collectively, the members of ACSA hold securities and investments of approximately AUD $2.3 trillion in value in custody and under administration. Members of ACSA include National Australia Bank Asset Servicing, BNP Paribas, RBC Investor Services, JP Morgan, HSBC, State Street, Northern Trust and Citigroup.

ACSA's comments on the Discussion Paper

The ACSA feedback set out below follows various telephone discussions between Nicholas Backhouse from Treasury and Mick Giddings, Chairman of ACSA's Tax Working Group.

1. Based on comments during our discussions, ACSA understand the data to be provided would relate initially to individuals holding equities (shares or units) as pre-filling is at this stage confined to individual tax returns. The main operations

of investment custodians impacting on individuals holding equities is the provision of **registry services for unlisted managed fund clients**. Investment custodians do not currently provide share registry services (for listed or unlisted companies) and do not provide registry services for listed trusts. The comments below are based on the assumption that the reporting requirements within scope of the proposals relate to sales/redemptions by individuals and not other taxpayer entity types. If this assumption is not correct the proposals could have a much larger impact on the investment custodian industry and ACSA would like to be consulted on any increased scope.

2. In general terms, ACSA has major concerns about the usefulness of the data sought by the ATO and how it could facilitate an enhanced taxpayer experience through an expansion of the pre-filling process. The concerns include:
    a. The custodian should have access to sale or redemption proceeds but will only in the most straightforward of cases know the acquisition costs or acquisition dates. If the unit holder holds multiple parcels of units acquired at different dates and for different prices, then the custodian will not know which parcel should be allocated to the sale/redemption. If the number of units sold or redeemed does not correspond exactly to the number of units in an existing parcel, then remaining parcels will need to be reconstituted to allow proper matching for future sales/redemptions. We would have grave reservations if the ATO was to force a particular parcel selection method on taxpayers in order to make its pre-fill calculations accurate.
    b. The finality of data regarding sale/redemption proceeds is another issue. See further details in paragraph 7 below.
    c. We do not perceive any benefit to the investment custody industry of introducing the new reporting requirements. The measures are inconsistent with the stated objective of Government to reduce 'Red Tape' and compliance costs for industry.
3. The suggested start date of 1 July 2014 is not achievable – ACSA custodial members have very complex systems and will typically have forward work programs for the next 12 months. The change process is detailed and would require dedicated project resources. Work required would involve:
    a. understanding requirements of changes and additional reporting required,
    b. scoping of changes,
    c. design of enhancements,
    d. internal and external stakeholder consultation,
    e. internal and external specialist advice,
    f. industry consultation on critical issues,
    g. implementation of changes to collect data required, testing of changes - including identification of suitable data set, identification/creation of appropriate boundary scenarios/expected results, testing in sandbox and live environments, UAT and regression,
    h. external consultant review of readiness for reporting,

   i. we expect this process would take at least 18 months.
4. In summary, implementation is likely to be a lengthy and costly process. Costs would be likely to run to several million dollars for the industry – conservatively we would think in the range of $5 to $10 million. There would not appear to be any benefit to investment custodians of being required to provide the information. The likely costs to the investment custodian industry should be identified specifically in the Regulation Impact Statement accompanying any legislation introduced in relation to the data reporting measures.
5. Core custody and investment administration functions undertaken by investment custodians do not involve individuals. The clients for these services are large managed funds, regulated superannuation funds, large corporates, insurance entities and government business entities. Where the client is a trust or superfund the trustee will be a company. We understand from our discussion that equity holdings of such clients are at this stage out of scope. The scale of equity holdings for such clients is much larger than that for individuals in unlisted trusts. The value of such equity holdings would be approximately $1 trillion – so the volume of data and cost of compliance would be much greater - and therefore it is obviously critical for ACSA to confirm that equity holdings maintained on the core custody platform are out of scope.
6. Identification data relating to individual investors in unit trusts is generally available from registry systems. This data is already used in the annual AIIR process. Subscription dates are problematic as the identification of parcels sold is not known by the custodian. The custodian does not know the parcel selection methodology – eg, specific, FIFO, Loss Max - applied by unit holders for their own tax affairs. Custodians would need to make assumptions about the parcel selection required for the provision of data and then link it to information on the register regarding acquisition dates and acquisition costs. This could lead to a lot of inaccurate matching in practice. Redemption information should be available (subject to the finality issue in the next paragraph) but is only one part of the realised gain or loss calculation.
7. There is an issue regarding finality of data to be provided. Where the data to be provided (eg, redemption proceeds, capital return or tax deferred amounts) is in any way impacted by annual tax calculations of the trust not finalised until sometime after the end of the relevant tax year, then it would be pointless for data to be provided until final numbers are known. If such data was required by the ATO prematurely and used as a basis for pre-fill calculations it would be confusing to individual unit holders and their tax agents and would likely lead to increased, rather than decreased, compliance costs.
8. It may make sense that the data required is provided as part of the annual AIIR process.
9. The legal requirement to provide the information should be imposed on the trust involved (not the investment custodian).
10. A question for Treasury and the ATO to consider is what level of detail would be provided to an individual taxpayer in the pre-filled return. Will it include all details necessary to calculate the realised gain or loss on sale/redemption of

units? If it does not, and this level of detail is not readily available to the tax agent of the individual or the individual if conducting their own tax affairs, there will be no way to reconcile the calculation. This could lead to compliance costs for the individual increasing rather than decreasing.

In response to the specific questions raised about data collection on the sales of shares and units, we comment as follows:

What are y our existing share and unit-related reporting obligations? Do you currently report much of this information to other Government agencies? How could these obligations be modified to minimise your compliance costs?

See responses above, particularly in paragraphs 1 and 6.

Would it be feasible to collect all the information sought by the ATO? What information do you currently collect? Are there any other entities that collect some, or all of this information? Is similar information readily available in relation to unlisted shares?

If the information sought is confined to the various details for sales and redemptions of equity securities held by individuals registered on registry systems maintained by an investment custodian for a trust client, then it could conceivably be provided to the ATO. We reiterate the issues dealing with quality, finality and timeliness of data as set out above (particularly paras 6 and 7).

If the information sought is extended to details of equity securities held by other investors such as managed funds, superannuation funds, corporates, etc, the scope of compliance is much larger. The volume of data would be enormous and the logistical exercise of collection and provision to the ATO in a format compatible with ATO data specifications would be extremely onerous.

What systems do you use to comply with your existing reporting obligations?

For AIIR reporting undertaken by investment custodians for registry clients, registry systems will link to the AIIR reporting capability. Component data and other required data is mapped from the registry system for this purpose. Investment custodians will have their own specific systems linking data from trade capture/flow, through the investment/custody systems and tax and accounting templates.

What would constitute the bulk of your compliance costs (implementation or ongoing) in complying with these obligations? Would a more frequent reporting obligation (such as quarterly or monthly) impose significantly more ongoing compliance costs than an annual obligation?

There would be significant compliance costs of both an implementation and an ongoing nature. Obviously, if the data collection extends beyond equity holdings for individuals,

the costs of compliance would be very substantial. Quarterly or monthly compliance obligations would significantly increase costs.

Is a start date of 1 July 2014 feasible? If not, how long would you need to develop any necessary systems changes?

Paragraph 3 above addresses this. At least 18 months based on the requirements relating only to equities held by individuals.

Are there any other impediments to the ATO receiving or using this information?

We are not sure what is meant by 'impediments'. However, if the reporting obligations extend to equity transactions of clients of custodians, the scale of data to be provided would be enormous. As noted above, the challenge of finalising data and providing it in a format compatible with ATO requirements should not be underestimated. If Treasury was to expand the proposal then we strongly recommend that a proper independent assessment of the costs for the investment custody industry of implementation and ongoing compliance be undertaken. From experience with the annual change process for AIIR, SDS and tax return reporting we would expect there would be an ongoing annual cost of updating systems for changes dictated by the ATO.

We would be happy to discuss with you ACSA's views on these issues. Please contact Mick Giddings on (03) 8641 0898 or Gordon Little on (02) 8262 5227 to arrange this.

Yours sincerely

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