

11 July 2014

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The Treasury
Langton Crescent
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By email: unclaimedmoneys@treasury.gov.au

Dear David

Unclaimed Moneys

Thank you for the opportunity to comment on Treasury's Discussion Paper *Options for improving the Unclaimed Bank Account and Life Insurance Money Provisions*.

COBA is the industry body for credit unions, mutual building societies and mutual banks. Collectively, the institutions we represent have \$86 billion in assets and serve more than 4 million customers. The customer owned model is the proven alternative to the listed model, delivering competition, choice, and consistently market leading levels of customer satisfaction.

COBA is particularly interested in the Discussion Paper's proposals around potentially altering the required period of inactivity for bank accounts and life insurance products.

COBA agrees that the 2012 changes which reduced the period of inactivity to three years were rushed and created challenges for our sector and confusion for customers. However, these changes have now been implemented by all customer owned ADIs, and further amendments to the framework were made by the government in 2013 which addressed the unintended consequences associated with the 2012 change.

In particular, COBA was strongly supportive of the changes which have given account holders a broad range of avenues through which they can notify their ADI that they do not want their account considered inactive. This was something we called for in our original 2012 submission, where we noted that:

"In some circumstances, it is possible that no transactions will have been made on an account for three years but the ADI remains in contact with the account owner. The need to transfer an account where no transactions

have been made for three years should be waived where an ADI has contacted the account holder and the account holder has confirmed that they wish to continue holding the account with the ADI.”

Under the new arrangements, we note that any form of engagement with the ADI, including simply logging on to an internet bank account, is sufficient activity for a customer to indicate that they do not want their account to be considered inactive.

In considering whether to make further changes, we note that the current approach has a number of advantages. As highlighted by Treasury, retaining the status quo:

“...would have the advantage of not creating additional confusion for customers and not requiring ADIs and Life insurers to make any further changes to their existing processes or IT systems. After three years ADIs and Life insurers are also more likely to have up to date contact details for customers at risk of having their money transferred to ASIC – potentially minimising the number of accounts incorrectly declared unclaimed.”¹

Treasury has also observed that:

“...current claims data for the existing unclaimed bank accounts scheme shows that it becomes increasingly unlikely that lost moneys will be reunited with their owners, the longer it has been since the last transaction on the account. Therefore, listing unclaimed amounts after three years should reduce the proportion of unclaimed moneys which are never reunited with their owners.”²

And that:

“An account owner (or their descendants) has no easy way of searching for old accounts until the account is transferred to ASIC and entered into ASIC’s online database as unclaimed money.”³

For those accounts that are genuinely unclaimed, transferring them to ASIC after three years rather than five or seven years provides the account holder with a number of important benefits. In particular, the shorter period of inactivity “helps to protect the real value of lost amounts for their owners.”⁴

In commenting on the 2012 legislative changes, consumer group Choice noted that: “With unclaimed monies being transferred four years earlier to the Commonwealth, the Australian Securities and Investments Commission, or the Commissioner of Taxation, the erosion of balances through fees, commission and adverse market movements is substantially reduced.”⁵

¹ Treasury, *Options for improving the Unclaimed Bank Account and Life Insurance Money Provisions*, May 2014, p. 6.

² Treasury, *Submission to the Senate Economics Legislation Committee*, November 2012, p. 3.

³ *ibid.*

⁴ *ibid.*, p. 4.

⁵ Choice, *Submission to the Senate Economics Legislation Committee*, November 2012, p. 1.

We note that one of the concerns around the move to a three year period has been the significant spike in the number of accounts transferred to ASIC in the first year following this change. While the transfers in that year were particularly high, and possibly indicative of money being transferred which is not truly “unclaimed,” much of this spike was likely due to a range of one-off factors, including that:

- Moving from seven years to three years in a single step meant that all accounts that has been inactive for between three and seven years were transferred in a single hit – effectively transferring five years of unclaimed accounts at once;
- There was little effort made by the Government to advise the community of the change, and there were no Government resources dedicated to raising public awareness;
- The rushed nature of the changes meant that ADIs did not have sufficient time to make their normal efforts to contact members with accounts identified as “unclaimed;” and
- Under the old system, customers needed to more actively engage with their account (by making a physical transaction) to avoid having them caught up in the unclaimed money changes.

Given that these issues were all one-off factors, we would expect the number of accounts transferred in years going forward to fall significantly. In particular, the capacity for people to effectively “reset” the period of inactivity by simply logging into an online account or answering a phone call should eliminate a large proportion of the unnecessary transfers.

While we acknowledge that customers are frustrated when their accounts are considered “unclaimed” and transferred unnecessarily, it is inevitable that this will always occur in some cases irrespective of the approach the government takes to unclaimed monies. What is important is that the policy framework results in the number of these unnecessary transfers being as low as practicable.

We do not see any compelling argument which would suggest that moving from a three year period to a five or seven year period would reduce the number of accounts transferred unnecessarily. Under the current three year arrangement, an account would only be transferred if:

- No transactions have been made on the account for three years; and
- The account holder has not used internet banking to log onto the account for three years; and
- The ADI holding the account has been unable to contact the account holder (either by phone, mail, or other means).

If the period of inactivity was extended to five or seven years, the same criteria would need to be met, the only element that would change would be the period of inactivity. It is not clear that such a change would have any noticeable impact on the number of accounts being transferred to ASIC.

The only accounts which would be treated differently under such as change would be ones where an ADI was unable to contact someone after three years, but could

contact them after five, or where someone didn't interact with their account within a three year period, but did within a five year period. We would expect that the number of accounts which fell into one of these categories would be very low, and that therefore the impact of such a change on the number of accounts transferred would be minimal.

Indeed, it is arguable that an ADI is more likely to be able to contact an account holder after three years of inactivity than they would be after an inactivity period of five or seven years, given that contact details are less likely to remain up to date the longer the inactivity period. As such, it is actually conceivable that a three year inactivity period would reduce the number of accounts transferred unnecessarily.

While we acknowledge that arguments can be made both for and against the continuation of the current arrangements, we believe that the only way to objectively assess their appropriateness is to allow the present system to continue running for several reporting periods and then determine how it has actually operated in practice.

If the government is genuinely concerned that the number of accounts being transferred unnecessarily is too high, a better policy response would be for the government to promote greater community awareness of the unclaimed monies framework.

Costs of further changes

With ADIs now having implemented the changes associated with moving from a seven year to three year timeframe, any further changes would impose additional regulatory costs on the sector.

Given that the benefits of further change are at best minimal, and more probably questionable, it is unlikely that any benefits would outweigh the associated regulatory costs. We would also question the appropriateness of making amendments in this space given the Government's commitment to reducing red tape for business.

If the government nonetheless saw merit in making further changes to the unclaimed monies framework, it is critical that any proposal is properly supported by a Regulatory Impact Statement which provides all stakeholders with an appropriate opportunity to quantify the likely costs.

CPI indexation of unclaimed accounts

While we support the government's policy of linking the value of unclaimed accounts to inflation to ensure that their real value is preserved over time, we note that the tax treatment of these accounts when compared to ADI deposits does create potential competitive neutrality concerns.

In particular, in the current environment where real interest rates are very low, or even negative, it is arguable that an unclaimed account, as a government protected and tax exempt investment paying a rate of return equal to inflation,

could be an attractive investment for some individuals when compared to an ADI deposit which is taxed at an individual's marginal tax rate.

We recommend that consideration be given to improving the tax neutrality of these two investments, either through changing the indexation of unclaimed accounts, or through reforming the tax treatment of ADI deposits consistent with the recommendations of the Henry review.⁶

Timing of further changes


While our preference would be for the government not to make further changes to the unclaimed money framework, if the government nonetheless decides to proceed with further amendments it will be critical that all affected institutions are given sufficient time to implement any required system changes and properly inform any customers potentially impacted.

In this regard, COBA welcomes the Government's acknowledgement of "...the need to ensure that industry is given sufficient time to adjust to any changes to the current arrangements, in line with the Government's commitment to a moratorium on new significant financial services regulation until the completion of the Financial System Inquiry..."⁷

One of the more significant complaints about the 2012 changes, and one which was shared by all stakeholders, was that the changes were rushed through without providing adequate time for implementation. It is essential that if any further changes are implemented that such an approach is not repeated.

Please contact me on 02 8035 8448 or Micah Green on 02 8035 8447 to discuss this submission.

Yours sincerely



LUKE LAWLER
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⁶ Henry, *Australia's Future Tax System – Part 2*, December 2009, p. 70.

⁷ Treasury, *Options for improving the Unclaimed Bank Account and Life Insurance Money Provisions*, May 2014, p. 4.