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By electronic submission:

<http://www.treasury.gov.au/ConsultationsandReviews/Submissions/2013/MySuper-reforms>

**Exposure Draft (ED) Tax Laws Amendment (2013 Miscellaneous Measures No. 1) Bill 2013:
MySuper loss transfer and asset rollover**

IOOF Holdings Limited welcomes the opportunity to comment on the Exposure Draft legislation, and the extension of loss transfer and asset rollover to accounts required to be transferred under MySuper.

IOOF believes that the extension of rollover relief to Pooled Superannuation Trusts (PST's), in both the proposed Division 311, and existing Division 310 is not targeting a member's interest in a PST in an appropriately equitable manner.

The loss relief encompasses transfers to and from PSTs and life insurance companies as well as superannuation funds and ADFs. It does not contemplate the circumstances where a superannuation fund may wish to collapse its holding via a PST such that the assets of the PST become direct holdings of that fund. In many cases, a superannuation fund may hold a significant portion of its assets via a PST, rather than holding those assets directly. Due to market volatility in recent years, a number of PST vehicles are holding significant realised and/or unrealised losses.

The proposed section 311-10(3)(b)(c) requires that a fund member is a member of the continuing fund immediately after the time that the transfer occurs. This has the effect of denying a PST access to rollover relief. This section, and section 310-20 (3)(b) in Division 310, only contemplate direct beneficiaries rather than indirect or ultimate beneficiaries. All funds, which have investments via a PST structure, are therefore unable to access rollover relief for those indirect assets. For example, they can only access relief for the units in the PST, and not for the underlying assets within it.

In light of the principle of CGT consequences attaching only to changes in economic ownership, it is unclear as to why the tests apply solely to a direct rather than an ultimate beneficiary. For fund members whose PSTs are holding significant losses, those losses will be foregone without relief in the event of transferring ownership to a fund even though there has been no change in economic ownership or ultimate beneficiary.

This is a significant impediment to consolidation of the funds industry, which has been the policy intention of rollover relief for superannuation funds for some time, including the extension to include PST's. The industry is attempting to move away from PSTs to direct holdings given advances in technology and processing and should be supported in this aim to ensure the lowest possible service delivery cost to fund members.

We submit that the rollover relief, in both Division 311 and Division 310, be made available as long as the ultimate beneficiaries are the same in respect of the transferring and receiving entities.

Proposed amendments to the Divisions are as follows:

311-10 Certain entities can choose transfer of losses, asset roll-overs, or both

(3) (c) the member, **or ultimate beneficiary**, is a member of the continuing fund immediately after the time that the transfer occurs (the *completion time*).

310-20 (3) (b) Original fund's assets include units in a pooled superannuation trust

(b) **the ultimate beneficiaries** of the original fund are, or become, **members** (within the meaning of that Act) of one or more * **complying superannuation funds** (the *continuing funds*).

These changes will not only make the provisions highly effective as a roll-over provision but ensure the required integrity safeguards are better targeted.

This is in line with the Government's intended policy directive that mandates appropriate rollover relief for PST's, with the understanding that a large number of superannuation members have their monies invested indirectly via a PST.

We would welcome the opportunity to be involved in any further consultation or discuss with you any aspect of our submission.

Yours sincerely



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