

21 February 2012

The Manager
Contributions and Accumulations Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Manager

RE: Exposure Draft – Disclosure of Superannuation Information

We appreciate the opportunity to provide comments on the proposal to amend Division 355 of Schedule 1 of the *Taxation Administration Act 1953*, and extend the list of exceptions under which the Commissioner of Taxation may disclosure superannuation information to certain entities. We would like to take this opportunity to raise the significantly truncated time frame in which comment has been allowed for this amendment. This has led to a very limited time to canvas the views of the membership, and we are concerned that a full and detailed response will not be possible across the industry, including consideration of possible unintended consequences.

The FSC acknowledges that this amendment seeks to provide the basis on which member account consolidation can be implemented and as such we find that full comment on this measure is difficult without access to and consideration of the legislative details of the consolidation measures.

We also advise that our generally supportive response to this amendment should not be taken as approval of the proposed consolidation measure in its entirety. The FSC supports a consolidation regime that is driven by member consent and sensible measures to reduce the number of truly unnecessary accounts, and therefore we recognise the necessity of this amendment to support this program.

We would therefore seek confirmation in the Explanatory Memorandum that information would only ever be provided to the entity on a consent basis for existing members, and that information would be restricted to “non-sensitive” information, for example, omitting account balances.

In particular, we seek clarification that the EM box on page seven describing the new mechanism will not permit disclosure of “all types of (member) information” such as account balances.

We do not believe that it would be necessary to disclose the quantum of a member’s superannuation balance to a provider in order for consolidation to proceed. Rather, the existence of an account should be disclosed. Member privacy does not need to be compromised in order to achieve the policy goal of reducing duplicate superannuation accounts.

We are concerned that the wording of the ED is very ambiguous as to who would be able to access the information of the member, on privacy grounds. It reads that any Trustee that has entered into an agreement with the ATO would be able to access information of any member, regardless of whether that Trustee had a direct relationship with that member or not.

One of the primary purposes for creating this portal and providing the information to members and trustees is to proactively promote consolidation or transfer of a members superannuation interests. Whilst the ATO may maintain they are purely providing factual information and no advice to members, the purpose of the disclosure is to incite activity.

Therefore, we would maintain that the portal must contain appropriate information in relation to a members' interest in order for the member to make an informed decision with respect to any subsequent actions.

Financial planners are subject to stringent regulatory obligations in relation to making recommendations on switching superannuation funds and the ATO should be mindful of these obligations in the disclosure of member information.

We believe that superannuation members should always retain a right to control the information that is available to third parties, and therefore a mechanism allowing members to "opt-out" of their information being provided to other superannuation funds, is needed.

This would consist of the member being able to instruct the ATO to not disclose their information to superannuation entities via this mechanism.

We would also request that references to auto-consolidation be either replaced with 'opt-out consolidation' or that auto-consolidation be defined in such a way that it is clear that such activity will only happen after a suitable period, for example 60 days, and after the holding fund has had the opportunity to advise the member of the benefits being forfeited as a result of the transfer.

We look forward to discussing this matter further. I can be contacted on 02 9299 3022.

Regards



ANDREW BRAGG
SENIOR POLICY MANAGER