

AIST response to online choice of fund design consultation paper

Feedback sought

Through the consultation paper the ATO is seeking industry feedback on:

- The principles supporting the online design for choice of fund;
- Whether the ATO design achieves the stated policy intent; and
- How to support a more efficient member and employer experience (i.e. through both ATO Online and Employer business management software solutions).

Summary of AIST response

The Online Choice form should not be implemented via any portal until it:

- Lists the default fund for the employee, including the details in the current Choice form;
- Provides an up-to-date listing of employees' existing super funds (including SMSFs), together with near real-time information about balances, insurance, recent contributions, and MySuper status;
- Contains at least the same level of consumer protection information as the current Choice form;
- Undertakes further consumer testing

Unless these changes are made, the Online Choice form will reduce consumer protections, display incomplete, out-of-date and potentially misleading information to consumers, effectively change existing legislated policy settings, compromise the existing default selection process, increase risks to consumers and would not be in the best interests of fund members.

Over the next two years, the ATO should align related projects such as MATS and MAAS to address these issues. The ATO should de-couple the implementation of the Online Choice Form from Single Touch Payroll, and commence discussions with stakeholders on an appropriate project plan and timetable.

AIST recommendations

AIST recommends:

- An additional design principle:
 - *The process should not change policy-settings nor reduce consumer protections, especially those that are legislated & in operation. This process does not change the respective default fund for any position in any employer, or how an employee is allocated to that default fund*
- Modification of the other design principles to include consideration of the employer's default fund.
- The form should include a mechanism to encourage the consolidation of multiple accounts into the fund that contributions are sent by the employer.

- The ATO Online design should be amended to incorporate at least the same level of encouragement to locate lost super and consolidate accounts (including identification of both the benefits and pitfalls) as is contained in the existing Standard Choice Form.
- For equivalent attention to be paid to the development of employer direct options, and commit to the release of standardised solutions for both options, that will be available at the same time (e.g., 1 July 2019).
- The form to be amended to explain that it is voluntary and the consequences of non-completion.
- The form to be amended to include at least the same level of consumer protection information as the current Standard Choice form.
- The ATO to incorporate the core information requirements of the Welcome Pack into the online Choice design.
- The Online Choice form should not be implemented until data feed issues, and associated design issues are resolved.
- For the ATO to prepare a detailed timeline for implementation of the MATS/MAAS projects, incorporating the online employee commencement project. The implementation of the Online Choice Form must not pre-date the implementation of MATS/MAAS.
- For MySuper funds to be listed first in the draft screens, and be followed by a listing of funds that are not MySuper products.
- For the ATO to review the names of the super funds that will be listed online, to ensure they reflect the names by which funds are commonly known, and for the ATO consider the display of super fund logos beside their name to help new employees recognise their super funds.
- The ATO commence a project to display the default fund in both the employee direct and the employer direct option, with a project plan for this that allows the implementation of an online Choice form from 1 July 2019.
- Further user testing to be undertaken following the review of the online Choice form after this consultation and the recommended revision of the implementation date.

Responses to questions

Do you have any feedback on the current design principles including whether they support the stated policy outcome?

- **Existing policy settings**

The stated policy outcome is:

1. To allow people to easily retain the same super account when starting a new job;
2. Reduce the proliferation of multiple accounts and fees.

The announcement in the 2016 Budget also explicitly stated that the policy was going to be implemented by giving employees the option of either using the employee direct option (myGov) or the employer direct option (employer business management systems).

The stated policy outcome must operate within the context of existing policy settings and explicitly recognise the existence and nature of these settings.

The outcome is not to change or side-track existing legislatively-set policy. That policy is for an employee's Superannuation Guarantee contributions to be defaulted into the employer's relevant default fund where an employee has not exercised choice.

This is not sufficiently clear in the consultation paper as a whole nor specifically in the design principles.

All default SG contributions must be made to an authorised MySuper product. This process ensures that employees have the protection of the higher standards applicable by law to MySuper products¹.

This higher level of consumer protection provided by MySuper should be highlighted in the design principles, and should result in MySuper products having greater prominence on the online Choice form. This means that the employer's default fund (always a MySuper product) should be listed and that MySuper products should be given prominence in the listing of an

¹ Higher standards for MySuper (SIS Act unless otherwise indicated):

- a. Enhanced director obligations:
 - i. S.29VO obligations: Directors of corporate must exercise a reasonable degree of care and diligence for the purposes of ensuring that the corporate trustee carries out the obligations referred to in section 29VN.
 - ii. Regulations prescribed under s.54A.
- b. Enhanced trustee obligations:
 - i. 29VN enhanced obligations (in addition to section 52 covenants)
 - 1. (a) Promote the financial interests of members of the funds in the MySuper product, in particular returns to those beneficiaries (after the deduction of fees, costs and taxes)
 - 2. (b) Determine annually whether beneficiaries in MySuper are disadvantaged relative to other funds' MySupers due to scale of:
 - a. members in the MySuper product ((b)(ii)) or
 - b. members in the fund generally ((b)(iii)), or
 - c. assets in the MySuper product ((b)(iv) and (v)).
 - 3. (c) Include trustees consideration of the matters in subsection (b) in the investment strategy and
 - 4. (d) Include returns over 10 years and the level of risk applicable to investment in those assets.
 - ii. Regulations prescribed under section 54A
- c. Must provide members with death or TPD insurance (s.68AA) and the ability to opt-out.
- d. Requirement to publish a product dashboard for each of the fund's MySuper products (Choice has been deferred). (s.1017BA, Corporations Act)
- e. RSE licensees offering MySuper products must disclose details of remuneration of executive officers or trustees (s.29QB).

employee's existing funds. Such an approach is also sector agnostic, as MySuper products are issued by retail, industry and public sector funds.

Accordingly, the design principles must acknowledge the need to provide consumer protection, and explicitly acknowledge that this is provided in part through the higher standards required of default funds (MySuper products). This is a key element of ensuring that this process operates in the best interests of members: AIST represents profit-to-member funds and is concerned in this and all of its advocacy that the interests of members be put first.

Therefore, **AIST recommends** an additional principle is required ahead of draft principle #4:

The process should not change policy-settings nor reduce consumer protections, especially those that are legislated & in operation. This process does not change the respective default fund for any position in any employer, or how an employee is allocated to that default fund.

AIST supports draft design principles #1, 2, 3 & 7, and supports the remaining principles #4, 5 & 6 in a modified form.

AIST recommends that principles #4, 5 & 6 be modified to read as follows:

4. The process should provide consideration of an employee's existing superannuation accounts and the employer's default fund.

5. This exploration process should be fund and sector agnostic – i.e. with no inherent bias to a particular fund or sector.

6. Nevertheless, the process should not encourage the un-necessary proliferation of multiple member accounts (e.g. by including avenues to facilitate consolidation of multiples by a member and the simple selection of an account where desired).

- **Encouragement of account consolidation**

While the draft design principles encourage avenues to facilitate the consolidation of accounts, the proposed screen design does not fulfil this principle. That is, there is no encouragement or facilitation of the consolidation of accounts on the form or elsewhere in the onboarding process.

AIST recommends that the form should include a mechanism to encourage the consolidation of multiple accounts into the fund that contributions are sent by the employer.

Similarly, the existing standard Choice form alerts new employees that they may have lost super, explains why this is important and provides details of services and processes that can be used to consolidate accounts.

AIST recommends that the ATO Online design be amended to incorporate at least the same level of encouragement to locate lost super and consolidate accounts (including identification of both the benefits and pitfalls) as is contained in the existing Standard Choice Form.

- **Employer Direct Option**

While the scope of the employee commencement services encompasses both services provided directly through an employer's software or through a similar process in ATO Online, the consultation paper (and the ATO's *Superannuation Changes 18 Month Change Picture* document) focuses on the design for the new ATO Online screen, and flags this functionality being available on ATO Online from September 2017.

The flip side of this is that the consultation paper is vague and ambiguous in relation to the requirements for delivery in an employer's business management software. While the ATO's *STP Program Focus areas at July 2017* document (provided to the STP Advisory Group) gives an estimated completion date for the employer direct solution, the consultation paper does not reflect this and gives no indication of an implementation date.

AIST strongly submits that equivalent attention be paid to the development of employer direct options, and commit to the release of standardised solutions for both options, that will be available at the same time (eg, 1 July 2019). As part of this process, the ATO should answer the following questions:

- What level of guidance and support will the ATO provide for employer direct options?
- What is the role (if any) of the Welcome Pack in relation to employer direct options?
- To what extent will the display and layout of the employee commencement process on employer direct options be standardised?
- What will be the process to ensure that employer direct options are and remain compliant with policy requirements?
- When does the ATO expect that employer direct options will be made available?
- Will this be harmonised with delivery of the ATO Online solution?
- Given that this is a voluntary service, how will the ATO encourage business management system to meet requirements?

Does the current design meet the design principles?

No, the current draft ATO Online design does not meet the design principles, and is otherwise deficient in numerous respects.

- **Voluntary service**

There is no reference in the consultation paper or the draft ATO Online design to the voluntary nature of the service nor of the consequences of not completing the form, that is, allocation of their contributions to their employer's default MySuper product.

AIST recommends that the form be amended to explain that it is voluntary and the consequences of non-completion (including identification of the employer's default fund).

- **Default fund details**

The existing Standard Choice form (NAT 13080) is pre-filled with details of an employer's default fund, and provides detailed information to inform and protect the interests of super fund members. In contrast, in the proposed STP employee commencement service the form is deficient in not providing this information.

The first piece of information on the instructions for the existing Standard Choice form is that:

OPTION 1: You can stay with your employer's super fund. If you don't make a choice, your employer's super contributions will be paid into a fund chosen by your employer. You do not need to complete 'Section A' for this option.

In an alert box relating to this option, it states:

You only need to complete 'Section A' if you are choosing a fund that is different to your employer's nominated fund (also known as their default fund). You do not need to return this form to your employer if you want to continue to stay with their default fund.

In contrast, the current draft ATO Online design does not provide this information nor this alert. The ATO Online design must include at least the level of information provided in the existing Standard Choice form.

Employers are required to pre-populate Section B of the existing Standard Choice form with information about:

- Employer's business name
- ABN
- The employer nominated superannuation fund, and:
 - Superannuation product identification number;
 - Phone number to obtain a product disclosure statement;
 - Fund's website address.

In contrast, the current draft ATO Online design does not identify the relevant default fund nor does it provide any of these details.

- **New employee Welcome Pack**

The proposed requirement for an employer to provide details of their default fund in the 'welcome pack' for new employees is inadequate and misleading. Although the consultation paper identifies the welcome pack as the 'starting point' for communication with new employees, it is not clear that this would be the first lot of information that would be provided to a new employee, nor how it relates to use of the ATO Online form.

The *Process Flow for Employee Commencement* in Attachment A shows that the "Employee [using the employee direct option] is given the Employer's ABN and default super fund details" as a first step. This information will presumably be in the Welcome Pack and is likely to be a manual

process separate from access to and use of myGov. In particular, there is no guarantee that default fund details will be given as first step, and a new employee might just be given the employer's ABN.

On the face of it, it looks like the ATO has swept up the legislative and other information that it cannot or will not incorporate into the ATO Online form into the Welcome Pack. Rather than provide greater clarity about this, the consultation paper has stated that it is up to each employer "to consider the best method to provide this information to their new employee." This is an unsatisfactory approach, and means that the ATO is not providing full visibility of the processes to be followed in relation to meeting obligations toward new employees.

While the text of the consultation paper identifies the Welcome Pack as the starting point of the commencement process for all new employees, Attachment A suggests that the Welcome Pack is only a feature of the process for employees using the employee direct option. If this is correct, it appears to be assumed that the 'core information requirements' of the Welcome Pack will be incorporated into the employer direct solution. It is understood that many employer business management systems hold default fund details, and this may hold the key to the display of default fund details.

AIST recommends that the ATO incorporate the core information requirements of the Welcome Pack into the online Choice design. Default fund details, ABN and other core information in an employer's business management system should be sent to the ATO for inclusion in the online myGov form.

- **Assisting members to make better decisions**

The existing Standard Choice form states that employees should read the ASIC *Super Decisions*² document ('BEFORE YOU COMPLETE THIS FORM') to help them understand more about super and make better decisions about super, and provides both web and phone details to obtain a copy. The current design is deficient in neither including this statement nor details about getting the information.

The Super Decisions document is designed to assist employees obtain more information about super – with an emphasis on making "*sure you have accurate, up-to-date information*" – and deciding "*what's best for you.*"

The document provides vital information about:

- What is super?
- Which super fund should you choose?
- What's the best investment option?
- Do you need insurance?
- Should you put extra into your super?

² <https://www.moneysmart.gov.au/media/555121/super-decisions.pdf>

- Should you change funds?
- Should you consolidate your small super accounts?
- Getting access to your super early
- How to make a complaint about your super fund
- Where to get more information

In contrast, the current draft ATO Online design does not provide this information. The statement recommending “*you check the fees, services, benefits and performance of the fund before making a choice*” does not explain what this means nor does it provide any details about where to get more information.

The ATO Online design must include at least the level of information provided in the Super Decisions document, and do so via a launching page link to the document. The launching page site should be hosted by ASIC and state the importance of taking time to make the right decision and provide a summary of the information that should be considered, that is contained in the document.

The existing Standard Choice form also states employees can obtain more information from the ATO, and gives both website and phone contact details. None of these details are contained in the ATO Online design. These details must be included in the ATO Online design.

- **Self-Managed Super Funds**

As the consultation paper itself acknowledges, the existing Standard Choice form allows an employee to choose a SMSF, while the current draft ATO Online design does *not* support selection of an SMSF.

The consultation paper notes the “*difficulty in validating the SMSF account details until a new ATO validation service is provided in 2018/19.*” It is noted however that the current iteration (24 May 2017) of the ATO’s *Superannuation Changes 18 Month Change Picture* document identifies this timeline for implementation as being ‘under review’.

While not determinative in itself, it is yet another example of an existing feature not being incorporated in the current draft ATO Online design, with an uncertain date for resolution. The proposed interim approach of redirecting employees back to their employers in this case involves an additional steps for both the employees and employers concerned.

The consultation paper also does not indicate how the SMSF selection would be supported in the future. This is of concern to AIST as inclusion of SMSFs would also need to meet the design principle of being sector agnostic.

This is another reason why the Online Choice form should not be implemented until these data feed issues, and associated design issues are resolved.

Are there other opportunities for the ATO to consider in the new online choice form design?

- **Encouragement of account consolidation**

While the draft design principles encourage avenues to facilitate the consolidation of accounts, the proposed screen design does not fulfil this principle. That is, there is no encouragement or facilitation of the consolidation of accounts on the form or elsewhere in the onboarding process.

AIST recommends that the form should include a mechanism to encourage the consolidation of multiple accounts into the fund that contributions are sent by the employer.

Are there any unintended consequences in this design?

- **Out of date information**

Yes, the absence of up-to-date information about an employee's superannuation interest could result in them making decisions based on old and incomplete information that is not necessarily in their best financial interests.

This is a consequence of the information being collected from the Member Contribution Statement (MCS) provided by super funds in October of each year. By the time the data is displayed, it may be more than a year old: balances may have changed, employees may have closed and consolidated funds, opened new accounts, changed their contribution flow or changed their insurance arrangements. Furthermore, there is no indication on the draft form that this information may be dated.

The ATO has recently commenced projects that aims to deliver event-based reporting to the ATO by super funds of contributions and changes in member attributes. The projects, the Member Account Transaction Service (MATS) and the Member Account Attribute Service (MAAS) are about improving member visibility of their total super holdings through creation of event-based reporting by APRA funds.

The display of near real-time information about an employee's super funds, their balances, insurance and recent contributions would greatly contribute to the ability of an individual to make an informed decision (although it would still require the other information identified in this submission) and reduce the chances that they will make a harmful decision based on out-of-date information.

AIST supports the MATS/MAAS projects and is working with the ATO to facilitate its implementation. It is vital that the Online Choice form be populated with near real-time information, and that the timeline for implementation of the form be aligned with and follow the implementation of MATS/MAAS.

AIST recommends that the ATO prepare a detailed timeline for implementation of the MATS/MAAS projects, incorporating the online employee commencement project. The implementation of the Online Choice Form must not pre-date the implementation of MATS/MAAS.

- **Insurance**

From a risk management perspective, this issue is especially important to protect an employee's insurance in superannuation.

Super fund members will be using the form to make decisions that impact their retirement income. However, the impact may also be immediate and life-changing if the form displays incorrect information about a member's insurance cover.

This is unlikely to be the case if the insurance information displayed on the online form is near real-time and populated from information reported to the ATO following implementation of MATS and MAAS. If, on the other hand, this information is updated annually from MCS, there is the risk they may choose a fund in which they no longer have insurance cover.

- **MySuper**

AIST has already addressed the importance of MySuper products in relation to the draft design principles. This relates to all default contributions being required to be sent to MySuper products, their higher standards and focus on promoting the financial best interests of members. This importance should be reflected in the online form design.

AIST recommends that MySuper funds be listed first in the draft screens, and be followed by a listing of funds that are not MySuper products.

- **Super fund names**

In order to convey meaningful information to new employees, **AIST recommends** that the ATO review the names of the super funds that will be listed online, to ensure they reflect the names by which funds are commonly known. In addition, **AIST recommends** that the ATO consider the display of super fund logos beside their name to help new employees recognise their super funds.

Do you have other questions for us?

- **Relationship with Single Touch Payroll**

The consultation does not provide a policy or practical justification for the inclusion of the online Choice form within the Single Touch Payroll initiative. Beyond the Government announcement that STP would include the development of the form, the rationale for the linkage is not clear.

It is noted that the consultation paper itself underlined the separateness of the elements, noting that "Single Touch Payroll services associated with payday reporting" are not within the scope of this paper.

- **Implementation date**

The consultation paper states that *“Single Touch Payroll was announced to start from 1 July 2017 and it is expected the streamlined commencement services will be released shortly afterwards”*.

The current iteration of the ATO’s *Superannuation Changes 18 Month Change Picture* document is more specific, indicating that *“Employers can begin to report pay event information using STP enabled solution (optional)”* from September 2017.

AIST submits that this timeframe is untenable, and would be even in the absence of the issues raised in this submission. When regard is had to the practical issues and need to proceed on a policy neutral basis, this timeframe is impossible to meet, and will not be met.

The ATO cannot proceed with a design that does not meet the minimum characteristics of the existing Standard Choice form, removes vital consumer protections, is not policy-neutral, does not meet the ATO’s own design requirements, and does not have timetable aligned with other, highly relevant, projects.

In addition to this, there are significant readiness issues for all parties involved in STP implementation, in relation to milestones from 1 July 2017 to 1 July 2018 and beyond. Despite some of these milestones being set in legislation, readiness concerns are a high profile at the STP Advisory Group, STP Design group and other forums.

In contrast to this, there is no legislative timeframe for implementation of the new online Choice form. AIST strongly argues that implementation must be aligned with the development of related functionality that will assist the members of profit-to-member funds. This is about providing consumer protections and details that will assist in decision-making – or non-decision-making – by new employees.

There are some indicative dates for developments of more frequent reporting in the MATS project and the SMSF validation service, suggesting that these may be in place by July 2019. However, for as long as the ATO does not undertake a project to pre-populate the default fund for an employee in their online form, it is impossible to set an implementation date for the online form.

AIST recommends that the ATO commence a project to display the default fund in both the employee direct and the employer direct option, with a project plan for this that allows the implementation of an online Choice form from 1 July 2019.

- **Usability Testing Report and financial literacy**

Overall, the usability report confirms the widely known view – the report cites *“previously well-documented attitudes towards super”* - that community levels of financial capacity & literacy are very limited, and underlines the importance of an efficient and member-focused default system with high levels of consumer protection.

However, the report also reminds that it is not only people with low financial literacy who make poor decisions, but that it is also financially knowledgeable people who have little time, energy or inclination to fill in forms. As the report suggests, many employees just want a solution that is quick and easy.

AIST submits that the findings of the usability report support the concerns expressed earlier in this submission about the lack of guidance and support provided by the draft online Choice form, the need for consumer protections to be in place, and the prominence that should be given to MySuper products.

Notwithstanding this, the focus of the report was on usability rather than comprehension, and involved a tiny sample size.

AIST recommends that further user testing be undertaken following the review of the online Choice form after this consultation and the recommended revision of the implementation date. The focus of this further usability testing should be on comprehension and the removal of obstacles to sound and informed decision-making.

AIST endorse the comment in the report that *“Getting this right is extremely important for achieving not only the best client experience but ensuring a minimal level of enquiries to employers, funds or the ATO once the data is displayed.”*

For further information regarding our feedback, please contact David Haynes, Executive Manager Policy & Research on 03 8677 3800 or at dhaynes@aist.asn.au.