

14 December 2012

Australian Taxation Office Via email

Email: SuperStreamStandards@ato.gov.au

Dear Sir/Madam,

## Superannuation Data & Payment Standards - Schedule 1

AIST welcomes the opportunity to make these comments on the proposed transitional arrangements in relation to rollovers and contributions.

The Australian Institute of Superannuation Trustees (AIST) is an independent, not-for-profit professional body whose mission is to protect the interests of Australia's \$500 billion not-for-profit superannuation sector. AIST's members are the trustee directors and staff of industry, corporate and public-sector superannuation funds, who manage the superannuation accounts of two-thirds of the Australian workforce.

# **Rollover transitional arrangements**

AIST supports a six-monthly rollover transition period of six months from 1 July 2013.

## Transition-in completion date

AIST supports the use of an objective measure for transition-in based on a super fund's level of rollovers, with transition of funds being from high-value-of-rollovers funds to low value funds.

## Transition-in completion date by agreement with APRA

AIST also supports the proposed flexibility that would result from the discretion of APRA to agree upon another date with a super fund.

AIST suggests however that APRA should not have absolute discretion in this regard. The exercise of APRA discretion should have regard to the best interests of the members of the super fund, and should not be reasonably refused when a super fund makes a submission meeting such a test.



Examples of such a reasonable exercise of discretion should be included in the explanatory memorandum, and should include:

- The grouping of super funds administered by a common administrator in a common transition-in completion date, such that some super funds may have an earlier or later transition-in completion date than might otherwise apply.
- The ability to delay the transition-in completion date (but not past 31 December 2013) in circumstances where an inflexible requirement to transition-in by the scheduled completion date would result in disadvantage to the members of the super fund. For example, a project plan for transition-in that is reasonably completed one month after the scheduled completion date.

Clarity needs to be provided on the exercise of discretion in order to provide super funds with efficiency and confidence in their planning, and to support the efficiency of the superannuation system as a whole.

## **Rollover transaction messages**

AIST supports the requirement for super funds to receive compliant rollover messages and electronic payments from 1 July 2013.

#### Compliance

AIST notes the exemption to the Standard in the defined circumstances but further notes the inefficiency to the superannuation system and the wider economy resulting from the exemption of SMSFs.

## From 1 July 2013 and subject to the roll-over transition-in arrangements applying

AIST supports the flexibility provided by these arrangements.

### **Contribution transitional arrangements**

## • No Choice of Fund exemption

The exemption from the Standard in circumstances where a small proportion of employees are exercising Choice of Fund is supported. The proposed exemption is defined on the basis of award coverage or legislation. The definition should be extended or clarified to also cover other industrial instruments such as enterprise agreements.

AIST also submits that there are practical difficulties with the exemption as it is currently drafted which require amendment if the provision is to work effectively.

Most significantly, a super fund cannot know what proportion of employees have exercised Choice of Fund. This will be a matter known only by an employer. To provide this information an



employer needs to know more than the number of its employees who have exercised Choice of Fund, and the number who are covered by a particular award or enterprise agreement; it needs to know the number of members who fit into both categories. In many cases, employers may not know this with precision.

AIST makes these suggestions to deal with this:

- A super fund should be required to seek an attestation from an employer that it reasonably believes may meet the requirements of the exemption; and an employer should be required to provide this attestation. The attestation could form part of the agreement between the super fund and the employer.
- It is also inefficient and unnecessarily onerous for this test to be applied on an ongoing basis. The agreement should reflect the term of the Standard, identify the date on which the exemption criteria is met, and provide for renewal every two years; the renewal should be automatic provided the employer still meets the criteria for the exemption.
- There should be a margin for error built into the exemption in recognition of these issues in circumstances where it is nonetheless clear that a very small proportion of employees are exercising Choice of Fund.
- AIST suggests that the exemption be extended from a threshold of less than 2% to less than 5%. This will be easier to administer, and be more readily understood and accepted by employers.
- AIST understands that employers contributing to UniSuper are able to make Choice of Fund contributions on behalf of 5% of employees. This both reflects an appropriate margin to cover special cases, and provides a guide as to a reasonable level for an exemption.

## Small business exemption

AIST notes that, following the transition-in period, small employers will continue to be able to make contributions using Schedule 4(a) compliant applications online direct data entry.

As 96% of employers have less than 20 employees, and 47 of employees are employed in such business (Australian Bureau of Statistics, Small Business, An Economic Overview, 2012), AIST submits that the threshold for this proposed exemption is far too high. Its adoption would threaten both the widespread adoption of the Standard, and the consequent efficiencies for the superannuation industry and the wider economy.

It is recognised that some small business have lower levels of resources and lower capacity to introduce and manage organisational change. It is noted that the exemption nonetheless requires small business to use an online contribution application, and AIST suggests that it is the requirement to use an online application rather than a requirement to use the Standard that would be the greatest initial hurdle for a small business.



As an alternative, AIST suggests that the requirement be revised so that it is only available to small business with less than 5 employees and annual revenues of less than \$2 million. It is noted that businesses with less than 5 employees constitute 24% of all Australian businesses.

The ability of AIST to comment on the exemption proposed for alternate contribution mechanisms is limited by the non-release of Schedule 4(a). AIST seeks to make further submissions on the proposed exemptions following the release of Schedule 4(a), and call for the release of this schedule as a matter of urgency.

If you have any further questions regarding this submission, please contact David Haynes, Project Director on 03 8677 3803 or at <a href="mailto:dhaynes@aist.asn.au">dhaynes@aist.asn.au</a>.

Yours sincerely,

Fiona Reynolds

**Chief Executive Officer**