

16 January 2013

Manager
Benefits and Regulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: strongersuper@treasury.gov.au

Dear Sir/Madam,

Exposure Draft - Acquisitions and disposals of certain assets by SMSFs and related parties

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.

AIST supports the measures proposed in this exposure draft (ED) relating to acquisitions and disposals of certain assets between self-managed superannuation funds (SMSFs) and related parties. AIST was a member of the SMSF Working Group as part of the Stronger Super consultation and strongly advocated for the policy position now proposed in this legislation.

This legislation stems from Recommendation 8.13 from the Cooper Review which the Government supported in principle which was motivated by concerns of transaction date and asset value manipulation on in-specie transfers of listed securities, such as shares, which affected compliance with the contribution caps and may result in manipulation of capital gains tax. Examples were given of off-market transfers where there was several months delay between the signing of the contract to transfer shares into the SMSF and the date of registration of the documentation.

It is generally agreed that the most accurate and transparent valuation of assets is the transactional value obtained when an asset is bought or sold. Where an underlying market exists (e.g. shares contained within the S&P/ASX 200 or 300 indices), the potential for valuation errors exists in off-market transfers and we believe that the safest way to value these assets is by actually transacting on them at arm's length. Where an underlying market does not exist, or where assets are thinly traded, we support the use of an independent valuer at the time of transfer to ensure accuracy. Valuations should be current, however flexibility should be shown where independent valuation expertise is difficult to obtain.

We support the use of an accredited independent valuer in providing valuations, particularly where asset values cannot be readily obtained. We question the appropriateness of funds holding assets obtained from related parties where valuations are unable to be obtained, and so do not support such transfers. Transfers of such assets from funds to related parties should not be encouraged.

AIST agrees with the inclusion of exceptions relating to the breakdown of relationships. AIST also supports the prohibition of schemes which avoid the operation of these new rules regulating SMSF related party transactions and administrative and civil penalties associated with the rules.

If you have any further questions regarding this submission, please contact Tom Garcia, Policy and Regulatory Manager on 03 8677 3804 or at tgarcia@aist.asn.au.

Yours sincerely,

A handwritten signature in black ink that reads 'Fiona Reynolds'.

Fiona Reynolds
Chief Executive Officer