

6 June 2014

Cyber and Identity Security Policy Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Email: identity.security@ag.gov.au

Dear Sir/Madam,

Re: National Identity Proofing Guidelines

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds who manage the superannuation accounts of nearly two-thirds of the Australian work force.

As the principal advocate and peak representative body for the \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

General comments

AIST notes that a recommendation from the Cooper Review – that superannuation funds be allowed to use Tax File Numbers (TFN) as key identifiers – was adopted by the Government in 2010. Amendments were passed to superannuation and privacy legislation to allow this in 2011.

The intention of this change was to ensure that Australians were better connected with their superannuation and to cut down on the amount of lost and unclaimed superannuation that exists.

We note that the guidelines are silent on the role of TFNs as identifiers, as well as the role of the Australian Taxation Office (ATO) in issuing TFNs. AIST recommends that the role of this identifier be explicitly considered throughout the proposed guidelines in this context.

2.1: What is identity?

Paragraph 2.1.2 notes that a person's identity is generally considered to be established at birth.

We are concerned that the wording of this paragraph has the appearance of a culturally normative assertion. Although exceptions to this particular paragraph are too numerous to detail, we point to cultural practices amongst some Aboriginal or Torres Strait Islanders, specifically the example whereby a community member may change their name as the result of the death of a relative or kinsperson with a similar name.

We believe that this example could be further confused by paragraph 2.1.3, which may cause readers to confuse such name changes with the use of a pseudonym, which it may not be.

Whilst we understand that paragraph 2.1.2 is written to be read within the context of paragraph 2.1.1, which discusses identity as a variable concept, we believe that it is appropriate to explain this exception here, potentially as a paragraph inserted between paragraphs 2.1.2 and 2.1.3.

5.1: Exceptions processes to confirm a claimed identity

We welcome the proposed guidelines provided with respect to exceptions.

AIST has previously provided comment to the Attorney-General's Department with respect to members of superannuation funds who may be lacking traditional identification documentation. In particular, we note Aboriginal or Torres Strait Islanders for whom it is possible that obtaining such documentation may be significantly more difficult than other Australians for a number of reasons, including:

- For some, there may be no registered, or even known date of birth;
- As previously explained, cultural norms may dictate that members change their names, due to the death of another family member with the same name; or
- A considerable number of communities are remotely located, without easy access to infrastructure where documentation can be obtained, for example, motor registry offices, post offices, passport offices etc.

We welcome the proposed guidelines for alternative identity proofing processes at 5.1.3, including process 3 which speaks to the proposed ability for:

3. *Verification of a person's claimed identity with reputable organisations or bodies known to them (for example, Aboriginal and Torres Strait Islander organisations may hold, or be able to verify (sic), the identity of clients where no prior government record exists).*

AIST believes that process 5 could be improved. Certification of documentation does not appear to be a major focus of the proposed guidelines (comments about Justices of the Peace at paragraph 4.1.6 notwithstanding), yet AIST believes that attention could be directed to broadening this for remote communities. In such communities, even if people have appropriate identification documentation, the ability to certify copies can be problematic.

We point out that Australians with lower amounts of identification or who are remotely located would be generally considered to be low risk and therefore in need of better solutions that are mindful of cultural sensitivities. Solutions for Aboriginal or Torres Strait Islanders could potentially include the following:

- Well-funded third party verification services staffed by professionals who are well acquainted with Aboriginal and Torres Strait Islander communities where identification is limited;
- An indigenous identification service where documentation is issued for people from affected communities; and/or
- The ability for elders from these communities to verify the identification of affected people, in the same way as certain specified persons, e.g. persons listed in the *Statutory Declarations Regulations 1993 (Cth)*.

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at rwebb@aist.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Garcia', written in a cursive style.

Tom Garcia
Chief Executive Officer