

20 July 2012

Mr Neil Grummitt
General Manager, Policy Development
Policy, Research and Statistics
Australian Prudential Regulation Authority
GPO Box 9836
SYDNEY NSW 2001

Email: superannuation.policy@apra.gov.au

Dear Mr Grummitt,

AIST response to proposed eligible rollover fund authorisation requirements

In this letter, AIST provides its comments on the proposed eligible rollover fund (ERF) authorisation requirements issued by APRA.

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 \$450 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.

Our commentary is aimed at ensuring that clear, detailed and consistent information is provided by APRA to RSE licensees intending to seek authorisation as an ERF, and that the authorisation process and associated requirements are implemented in a way that is consistent with Government policy – particularly the requirement for ERFs to take active steps to locate the owners of lost super monies and to consolidate lost monies into active superannuation accounts.

It is critical that implementation of requirements for ERFs be aligned with the overall legislative framework for Stronger Super, even though not all elements of the framework have legislative support. This currently includes ERFs, where the enhanced trustee requirements for ERF trustees and the requirement for authorisation are still to become law.

AIST has made many submissions on all aspects of the Stronger Super package of reforms, including the proposed MySuper authorisation requirements.

Key point

The application form for ERF authorisation should include specific questions requiring the applicant to provide their policies and activities with regard to assisting members to locate and consolidate their lost superannuation.

The inclusion such questions is consistent with stated government policy on the future role and requirements of ERF, and the proposed account consolidation framework.

Background

The Government has a policy of promoting account consolidation and of reducing account proliferation. A range of measures are being put in place to address this within the Stronger Super package. These include the proposed legislation setting minimum requirements for intrafund and interfund consolidation, and tasking (and funding) the ATO to design and implement solutions to facilitate consolidation.

Eligible Rollover Funds have a key role in this, and are also part of the Stronger Super framework. Under the proposed legislation for MySuper, it will be possible for the MySuper benefits of a member to be transferred to an ERF without their knowledge or consent.

Legislation is foreshadowed for the authorisation of ERFs and enhanced obligations on ERF trustees. In particular, the Government has re-affirmed its intention for ERFs to locate lost super monies. Legislation to give effect to these requirements has not yet been considered by parliament, let alone become law.

It is noted that earlier changes to the superannuation system included measures intended to “fix” the lost super problem, and so reduce the role and relevance of ERFs. However, this did not occur. Tax file number legislation in 1996, Choice of Fund legislation in 2004 and Simpler Super legislation in 2006 all included largely unrealised objectives that related to reducing lost superannuation.

Furthermore, it remains the case that many ERFs do not undertake activities to promote account consolidation, with AUSfund being the only ERF that has consistently and for the long term been active in this area.

Fulfilment of this objective is an element of the SuperStream measures, but the policy outcome is not assured, and the demise of ERFs cannot be assured. Therefore, documents implementing ERF reforms must proceed on the basis that the Government will implement its Stronger Super package as announced, and that additional protections are needed for .benefits transferred to ERFs.

The Government response in December 2010 to the Super System review stated:

“The Government supports cross matching of accounts in the ERF sector to assist members to locate and consolidate their lost superannuation and will consult further on implementation issues”.(page 63)

This was further emphasised in the publicly-released Treasury paper prepared for the MySuper consultation sub-group in April 2011 entitled *“Issues paper on eligible rollover funds and member protection rules”*:

*The Government’s Stronger Super package of reforms includes separate licensing for trustees of eligible rollover funds (ERFs) and additional duties for trustees of ERFs (recommendation 10.15). In addition, to assist members to locate and consolidate their lost superannuation, **the new arrangements will require trustees of ERFs to cross match accounts in their ERF with any active fund which seeks access to match its accounts** (recommendation 10.16). Separately, all funds will be required to cross match their new members with ERFs.”*(our bolding and underlining)

There has been no announcement or other indication from the Government that it does not intend to implement this policy position, but the necessary elements for implementation of this policy need to be included at relevant points in the various documents that collectively make up the Stronger Super package. A key document in this process is the application form for authority to operate a regulated super fund as an ERF.

The application form should anticipate the inclusion of the policy in the forthcoming legislation so as to properly reflect the Government’s stated intentions.

Account consolidation requirements

The ERF application form should therefore specifically ask the applicant to identify their charter or mission statement about assisting members to locate and consolidate their lost superannuation; the activities they have undertaken to fulfil this mission; the outcome of these activities in terms of numbers of members assisted and the value of their benefits.

Applicants should also be asked to identify how the mission and activities fits into the applicant’s business plan, and the targets (number of members and value of benefits) that have been set for each of the next three years of the business plan.

A question should also be included on demographic data, and explanation about how this impacts on repatriation activities

Scale requirements

It is unclear if the Government intends for ERF to be subject to a scale test. The Super System Review considered this to be part of enhanced trustee duties. The Government accepted the recommendation for enhanced duties for ERF trustees but has not specifically addressed this point.

The Super System Review concluded:

“Therefore, the Panel considers that ERF trustees should be subject to the same duties and principles as apply to MySuper trustees; namely:

...

- (b) *An ERF trustee must form the view, on an annual basis, that its ERF has sufficient scale on its own (with respect to both assets and number of members) to provide optimal retirement savings for its members; (Final report, page 324)*

APRA should obtain clarification from the Government on this point and include a question along the line of question B1.4 of the MySuper authorisation form if ERFs are to be subject to a scale test.

Applicable fees

The drop down menu to be used to answer question B2.2 of the application form includes reference to a “switching fee” as another fee which may be charged to members of an ERF. This is not relevant as an ERF cannot have multiple investment options, and consequently a member cannot switch from one option to another.

If you have any further questions regarding this submission, please contact David Haynes, Project Director on (03) 8677 3800 or dhaynes@aist.asn.au.

Yours sincerely,



Fiona Reynolds
Chief Executive Officer