



**AUSTRALIAN BANKERS'  
ASSOCIATION INC.**

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Mr Tim Bryant  
Committee Secretary  
Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia  
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Dear Mr Bryant

## **Unclaimed monies**

The Australian Bankers' Association welcomes the opportunity to provide additional comments to the Senate Economics Legislation Committee's inquiry into the *Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012*.

The ABA appeared before the Committee on Monday 12 November 2012. This supplementary submission responds to questions on notice as well as clarifies and provides additional information about evidence provided. These additional comments should be read in concert with the initial ABA submission.

### **Specific questions on notice**

*How many bank accounts will be affected by the proposed change?*

Due to time constraints, the ABA is only able to provide an estimate and is unable to extrapolate a total estimate based on available data. It is anticipated that between 11,000 – 75,000 accounts per bank could be impacted. The proposed reduction of the unclaimed monies period to 3 years would see a larger proportion of this number of bank accounts impacted in the lesser years (ie, 3-4 years).

*What is the average dollar amount in a bank account affected by the proposed change?*

Due to time constraints, the ABA is only able to provide an estimate. It is expected that the average amount in an unclaimed account will be between \$2,000 – \$12,000 per account. Importantly, the actual average amount depends on the individual bank.

*What is the estimated increase in unclaimed accounts if the unclaimed monies period was reduced to 3 years?*

The ABA estimates that individual banks would face a 300% – 400% increase in the number of unclaimed accounts for this compliance period to transfer and report accounts deemed to be unclaimed monies (ie, 3-6 years). This means that banks would face a significant burden in having to implement a special, once off process for these years as well as having to deal with a substantial increase in the number of customers that would need to be contacted and managed.

*What is the estimated compliance cost for a bank to make the necessary systems, procedures, processes, documentation, etc changes to accommodate the proposed change?*

The ABA estimates that individual banks would face between \$350,000 – \$1,000,000 to implement a special, once off process and \$500,000 – \$7,000,000 to build a new automated process. Importantly, the actual compliance cost depends on the individual bank. Furthermore, manual workarounds for a special, once off process are unable to be costed. It should be noted that smaller banks will likely have to use a manual workaround process which would have a substantial impact on resources.

The ABA notes that compliance costs include: IT systems and technology changes across core retail banking systems, review and updates to policies, procedures and processes, review and updates to documentation and terms and conditions (including hard copy and electronic materials and disclosures), marketing campaigns and customer communications, outbound call program and customer follow up, operational costs (including preparatory and development work, file and account management, closure/reactivation processes, reconciliations, compliance reporting), legal costs (including documentation, compliance), training costs, etc.

The ABA estimates that the compliance cost associated with the proposed legislation for the banking industry (this does not include other ADIs, such as credit unions and building societies) would be between \$10,000,000 – \$35,000,000.

Please note: This estimate assumes:

1. The scope and application of the unclaimed monies regime is unchanged and the regulations appropriately exempt certain account types and circumstances and confirm inactivity period as recommended; and
2. The proposed legislation would require banks and other ADIs to implement a special, once off process (in addition to the current annual process underway and the annual process required for compliance next year).

The ABA estimates that this compliance cost could be reduced by between \$5,000,000 – \$10,000,000 if the proposed legislation took effect 31 December 2013.

## Additional comments

### Accounts

The ABA believes that the proposed change to the unclaimed monies regime will have unintended consequences for certain account types, and therefore these accounts and circumstances should be explicitly exempt via regulations.

The ABA believes that if the Government is to implement the proposed legislation then a regulation will be necessary.

*“ For the purposes of section 69(1) of the Act unclaimed moneys do not include moneys to the credit of an account that has not been operated on either by deposit or withdrawal for a period of not less than 3 years where any part of the balance of the account:*

- a. Is utilised by the owner as a term deposit or other investment product;*
- b. Is utilised by the owner for a business purpose; or*
- c. Is a youth or child account within the meaning of Regulation [xxx-Accounts held in trust or for the benefit of a person under age 16]; or*
- d. Is subject to a set-off arrangement in favour of the ADI within the meaning of Regulation [xxx-Linked Account/offset account/portfolio account]; or*
- e. Is subject to an order or security stop within the meaning of Regulation [xxx-Accounts subject to an order/pledge/security stop].*

*Additionally, any accounts where the owner has other accounts active with the same financial institution, as the owner is contactable, the monies should not be deemed as lost or unclaimed.”*

The ABA will continue to work with the Department of the Treasury with regards to the regulations and associated definitions.

## **Farm management deposits**

The ABA notes that the proposed legislation exempts these accounts where the customer is contacted by the bank. It is important to retain this approach.

## **First Home Saver Accounts**

The ABA believes that First Home Saver Accounts (FHSA's) should not be included in the proposed legislation. The existing rules around the 4 year minimum rule will cause additional complexity. Further consideration needs to be given to how to treat these accounts in a manner which is practical for banks and other ADIs. We suggest that the proposed legislation should exempt these accounts where the customer is contacted by the bank.

## **Self managed superannuation funds**

The ABA notes that the proposed legislation would impose new unclaimed monies provisions to superannuation accounts. Further consideration needs to be given to how to treat accounts with banks that are used for the purpose of investment into superannuation. It should be noted that the majority of these accounts are term facilities or deposits, and therefore would be exempt. However, customers may elect to place their monies in other types of accounts which attract a higher interest rate. We suggest that the regulations should exempt these accounts used for an investment purpose and where the customer is contacted by the bank.

## **Terms and conditions**

Under clause 18 of the Code of Banking Practice, banks are required to give their customers 30 days notice of a change to the terms and conditions relating to their banking product. Some banks have specifically included information about the existing unclaimed monies regime in their terms and conditions. Those banks that have included specific information would need to give their customers 30 days notice of the change from 7 years to 3 years. Whereas, those banks that have not included specific information would not strictly have to notify their customers. However, these banks could face unnecessary customer anxiety and confusion over accounts being closed and the process for recovery and re-activation. Therefore, in practice, all banks would be required to implement additional customer communications and interfaces to manage the proposed change. These general and specific notifications would need to take place before other implementation and compliance processes.

The ABA believes that if the Government is to implement the proposed legislation then the Government should also conduct an awareness raising campaign to ensure the community understands the nature of the changes and how this might impact on their banks accounts, superannuation accounts, and life insurance policies.

## **Special, once off process**

The ABA notes that a special, once off process would be required for compliance for a number of technical and practical reasons, including:

- Banks have already commenced the annual process for compliance with the existing unclaimed monies regime. Therefore, if the proposed change is made, the only way banks would be able to comply is to implement a special, once off process early next year to ensure that they are able to transfer and report to ASIC by the required date. This would result in banks having to implement new systems, procedures and processes (automated and manual) within a very short timeframe. It would also result in banks providing duplicated transfers and reports to ASIC – first to comply with the existing regime, and second to comply with the new out-of-cycle change. This will result in administrative complexity for ASIC.
- Banks have implemented freezes on IT systems changes over the holiday period. Due to the significant increase in customer demand and the risk to the stability of banking system, changes cannot be made to core retail banking systems during this period (November – January). Therefore, if the proposed change is made, the only way banks would be able to comply is to implement a special, once off process early next year to ensure that they are able to transfer and report to ASIC by the required date. This would result in banks having to recalibrate twice next year – first to comply with the new out-of-cycle change, and second to comply with the new ongoing unclaimed monies regime. This would result in additional and unnecessary compliance costs for banks and disruption to account management for customers.

## Interest earnings

The ABA believes that the interest earnings from bank accounts can be substantially higher than unclaimed monies. The proposed legislation indicates that interest earned on unclaimed monies would be at CPI. It should be noted based on available data it is assumed that the majority of accounts which would be impacted by the proposed change currently receive an interest rate higher than the proposed CPI-linked rate.

## Tax neutrality

The ABA believes that the tax treatment of interest earnings should be the same whether those earnings from a bank account or from unclaimed monies. The proposed legislation indicates that interest earned on unclaimed monies would be tax free. It should be noted that interest earnings in bank accounts are subject to tax.

## Recommendation

The ABA does not support the implementation of the proposed legislation. If a change is to be made to the unclaimed monies regime, we believe that it is necessary to implement a change with effect from 31 December 2013. This approach would allow the outstanding legal, technical and practical issues to be resolved as well as allow banks and other ADIs to streamline the necessary changes within the annual process for compliance next year (and avoid the unnecessary cost and disruption caused by having to implement a special, once off process early next year).

Yours sincerely,

**Diane Tate**