Australian Government

The Treasury

9 November 2012

The Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Email: economics.sen@aph.gov.au

Dear Secretary

Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012

I refer to the Senate Economics Legislation Committee inquiry into the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012 (the Bill), which was introduced to the Parliament on 30 October 2012.

Please find attached Treasury's submission, which provides an overview of the Bill; information of the current arrangements and amendments to be made under the Bill; and some details of rationales to make the amendments and impact of the amendments.

Please do not hesitate to contact me if you have any queries regarding the matters raised in the submission.

Yours faithfully

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Submission to the inquiry into Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012

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OVERVIEW

The Government announced the unclaimed moneys measures in the *2012-13 Mid-Year Economic and Fiscal Outlook*. The Bill makes amendments to the *Banking Act 1959* (Banking Act), *First Home Saver Accounts Act 2008* (FHSAs Act), *Life Insurance Act 1995* (LI Act), *Superannuation (Unclaimed Money and Lost Members) Act 1999* (SUMLM Act), *Australian Securities and Investments Commission Act 2001* (ASIC Act), and *Corporations Act 2001* (Corporations Act) to give effect to the unclaimed moneys measures.

Schedule 1, 2 and 3 amend the Banking Act, FHSAs Act and LI Act to reduce the period of inactivity before a bank account or life insurance policy is required to be transferred to ASIC from seven years to three years, effective from 31 December 2012. (Please see **Part A**).

Schedule 4 amends the SUMLM Act in relation to two classes of unclaimed moneys. One class of unclaimed superannuation moneys relates to 'uncontactable' members and accounts which have been inactive for five years, while the other relates to 'unidentifiable' members. The amendments increase the account balance threshold below which lost accounts are required to be transferred to the Australian Taxation Office (ATO) from $200 to $2,000, effective from 31 December 2012. A 'lost account' is one where the member is uncontactable, or the account has been inactive for a period of five years. Separate to the first change, the amendments also reduce the period of inactivity before an account of an 'unidentifiable' member is required to be transferred to the ATO from five years to 12 months, effective from 31 December 2012. (Please see **Part B**).

Schedule 5 amends the Corporations Act and ASIC Act to streamline arrangements for the administration and distribution of unclaimed property and funds that arise under the Corporations Act, including closing the Companies and Unclaimed Moneys Special Account (CUMSA). (Please see **Part C**).

The Bill will also for the first time enable the payment of interest when these unclaimed superannuation, bank account, life insurance and company monies are reclaimed, from 1 July 2013, to maintain their real value over time. The Government intends to introduce legislation in early 2013 to exempt this Consumer Price Index (CPI) interest from tax. (Please see **Part D**).

In short, the Bill will bring forward the time at which money is recognised under the relevant laws as lost or unclaimed. By bringing forward the time when details are published in publicly searchable databases, the Bill will help to reunite people with their money sooner. It will also help to protect these superannuation, bank account, life insurance and company moneys from erosion by inflation and fees and charges.

PART A - BANKING, FHSAS AND LIFE INSURANCE (SCHEDULE 1, 2 & 3)

Schedule 1, 2 and 3 of the Bill amend the Banking Act, FHSAs Act and LI Act. The changes reduce the period of inactivity before bank accounts and life insurance moneys are treated as unclaimed from seven years to three, and pay interest equivalent to CPI inflation on unclaimed moneys from 1 July 2013.

Current arrangements

Authorised deposit-taking institutions (ADIs) are required to transfer accounts to ASIC where there has not been a deposit or withdrawal other than bank fees and interest for seven years[1]. For FHSAs, if there has not been a contribution or payment for seven years, they are required to be transferred to ASIC. There is a similar requirement for life insurers except that the seven year period is from when an amount becomes payable, such as when a policy matures[2].

To help reunite people with their unclaimed moneys, details of all unclaimed bank accounts and life insurance amounts are published on the ASIC website. People can reclaim these bank accounts and life insurance amounts at any time. However, currently no form of interest is paid when they are reclaimed.

ASIC performs a range of activities to reunite unclaimed moneys with their owners. In particular, it:

- maintains the unclaimed moneys database;
- publishes annually the Gazette containing the bank and life insurance unclaimed moneys provided to ASIC for that year;
- makes available the records for an online search through the MoneySmart website, including maintaining the search facility;
- has people available as part of ASIC's client contact centre to answer calls from the public about unclaimed money and searching for unclaimed money;
- runs a yearly promotion, including appearances on shows such as Sunrise on Channel 7, to promote people using the online search facility;
- where resourcing permits, seeks to locate persons with large amounts of bank unclaimed money owed to them and inform them of the ability to make a claim;
- promotes the online search facility when it attends exhibitions; and

1 In the case of bank accounts, there is also a $500 threshold in recognition of the costs to an ADI and the government associated with processing the transfer of small amounts. This threshold, which is set via regulation, was last determined in 1993, when many banks and government were still using paper based systems.

2 Life insurers have advised that the majority of unclaimed life insurance moneys relate to legacy insurance products and premium refunds.

- limitedly uses Twitter to let people know about unclaimed banking and life insurance moneys.

Amendments under the Bill

Under the amendments, the period of inactivity before bank accounts and life insurance policies are transferred to ASIC will be shortened from seven years to three years. In addition, interest will be paid at a rate equivalent to CPI inflation from 1 July 2013.

These changes will allow the earlier identification of lost bank accounts and life insurance amounts, thus enabling the details of these amounts to be published (and available to be searched) sooner.

Impact on depositors and beneficiaries

Reducing the period of inactivity before bank accounts and life insurance policies are transferred to ASIC will help reunite people with their unclaimed money sooner. An account owner (or their descendants) has no easy way of searching for old accounts until the account is transferred to ASIC and entered into ASIC's online database as unclaimed money. Once an unclaimed account is transferred to ASIC, people can easily search for it online at ASIC's website and can reclaim it at any time by contacting the relevant ADI, FHSA provider or life insurer. This includes descendants of the individual, in the unfortunate cases where the individual has passed away[3].

Furthermore, current claims data for the existing unclaimed bank accounts scheme shows that it becomes increasingly unlikely that lost moneys will be reunited with their owners, the longer it has been since the last transaction on the account. Therefore, listing unclaimed amounts after three years should reduce the proportion of unclaimed moneys which are never reunited with their owners.

In addition, to ensure these unclaimed moneys maintain their real value over time, the Government will pay interest on these unclaimed bank accounts and life insurance policies at the rate of CPI inflation, and will make this interest payment tax exempt. This will maintain the real value of unclaimed moneys for the benefit of the owners of these moneys. Currently, no interest is payable and the compounding effects of inflation can significantly erode the value of unclaimed bank accounts and life insurance moneys.

The following examples, taken from ASIC's online database, illustrate the impact of inflation.

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[3] Anecdotal reports suggest that relatives may search the unclaimed moneys register soon after a person dies. However, if the deceased person was using their account, it will currently not be recognised as unclaimed and listed in the ASIC database until at least seven years after their death.

- Last year a person reclaimed a bank account of $113 that was transferred as unclaimed money in 1973, after being inactive since 1966. If interest had been paid at the rate of CPI inflation since 1973, the owner would have received $935. Instead, because no form of interest is currently paid, the owner only received $113 when it was reclaimed – a loss of $882 in 2011 dollars.

- Mr Kenny from Cremorne had his $4,779 Commonwealth Bank account transferred as unclaimed money in 1971, after being inactive since 1964. If interest had been paid at the rate of CPI inflation since 1971, he (or a descendent) would receive $46,892 if he reclaimed the money today. Instead, because no form of interest is currently paid, if he (or a descendent) were to claim the money today, he would only receive $4,779 – a loss of $42,113 in today's dollars.

- Ms Hill from Glebe had her $947 Commonwealth Bank account transferred as unclaimed money in 1977, after being inactive since 1970. If interest had been paid at the rate of CPI inflation since 1977, she (or a descendant) would receive $4,749 if she reclaimed the money today. Instead, because no form of interest is currently paid, if she (or a descendent) were to claim the money today, she would only receive $947 – a loss of $3,802 in today's dollars.

- JS Douglas had his $402 NAB account transferred as unclaimed money in 1990, after being inactive since 1983. If interest had been paid at the rate of CPI inflation since 1990, he (or a descendent) would receive $712 if he reclaimed the money today. Instead, because no form of interest is currently paid, if he (or a descendent) were to claim the money today, he would only receive $402 – a loss of $310 in today's dollars.

- Henry Baulch of Stony Crossing had his $776 AMP Life Limited insurance policy transferred as unclaimed money in 1953, after being inactive since 1946. If interest had been paid at the rate of CPI inflation since 1953, he (or a descendent) would receive $12,343 if he reclaimed the money today. Instead, because no form of interest is currently paid, if he (or a descendent) were to claim the money today, he would only receive $776 – a loss of $11,567 in today's dollars.

Shortening the period of inactivity before bank accounts and life insurance policies are transferred to ASIC also helps to protect the real value of lost amounts for their owners.

The low balances in most unclaimed bank accounts suggest that many of these accounts are likely to be transaction accounts[4]. A survey by Treasury of the four major banks found that interest rates on their transaction accounts currently range from nothing to 0.01 per cent. In addition, life insurers do not provide interest on insurance policies.

For example, if inflation were to average 2.5 per cent, the extra four years before these inactive amounts are transferred to ASIC would allow their real value to be eroded by more than 10 per cent (four years x 2.5 per cent). For the median unclaimed bank account transferred in 2011 of $1,200, this means a value loss of more than $120.

4 Of the bank account balances transferred to ASIC in the most recent (2011) returns, half were less than $1275.

The real life examples above show how much of a difference four years can make where a bank account or life insurance policy is earning no interest.

- The owner of the $113 bank account that was reclaimed last year after being inactive since 1966, would have received $935 if interest had been paid at the rate of CPI inflation since 1973, when it was transferred as unclaimed moneys. This would have increased further to $1,074 if the account had been transferred after three years instead of seven.
- If Mr Kenny from Cremorne (or a descendant) today reclaimed his $4,779 Commonwealth Bank account that became inactive in 1964, they would have received $46,892 if interest had been paid at the rate of CPI inflation since 1971. This would have increased further to $54,510 if the account had been transferred after three years instead of seven.
- If Ms Hill from Glebe (or a descendant) today reclaimed her $947 Commonwealth Bank account that became inactive in 1970, they would have received $4,749 if interest had been paid at the rate of CPI inflation since 1977. This would have increased further to $8,033 if the account had been transferred after three years instead of seven.
- If JS Douglas (or a descendant) today reclaimed his $402 NAB account that became inactive in 1983, they would have received $712 if interest had been paid at the rate of CPI inflation since 1990. This would have increased further to $956 if the account had been transferred after three years instead of seven.
- If Henry Baulch (or a descendent) today reclaimed his $776 AMP Life Limited insurance policy that became inactive in 1946, they would have received $12,343 if interest had been paid at the rate of CPI inflation since 1953. This would have increased further to $19,627 if the account had been transferred after three years instead of seven.

Even if unclaimed bank accounts are earning interest, this interest is likely to be insufficient to keep up with inflation in many cases, and is normally subject to tax. Even though interest rates on savings accounts can be higher, quoted rates often include time limited special offers that may only last for a few months before reverting to a lower rate.

Another factor that can significantly erode bank accounts the longer they are left untouched before becoming unclaimed moneys is fees. Many bank accounts have fees of between $2 and $6 per month.

Although some accounts provide higher interest or fee waivers if certain amounts are deposited each month, unclaimed bank accounts will not qualify because, by definition, they have not had any recent deposits or withdrawals. Treasury reviewed terms and conditions of some bank accounts. For example:

- Commonwealth Bank's GoalSaver account offers 4.90 per cent interest. However, this drops to just 1.25 per cent if there is not a deposit of at least $200 each month. An unclaimed account will, by definition not qualify. Further, any interest earned would be taxable.

- A standard Westpac Choice account has no monthly fees, but only if at least $2,000 is deposited each month, otherwise there is a $5/month monthly service fee. Therefore an inactive account would lose an extra $240 in monthly fees if left in the bank for seven years instead of three years.

In contrast, if unclaimed moneys are transferred to ASIC after three years, they will be listed on ASIC's online database, making it easier for their owners to find them, and they will be protected from inflation and bank fees sooner.

Once the owner of an unclaimed bank account finds the account using ASIC's online search facility, all they need to do to reclaim their account is to approach the relevant financial institution. The ADI will then assess whether the claimant is the rightful owner of the account and notify ASIC. ASIC will then release the funds to the ADI. The process for unclaimed life insurance moneys is the same, except that the claimant must approach the relevant life insurer.

Impact on financial institutions

ADIs and life insurers already have systems in place to identify and transfer unclaimed moneys to ASIC based on the current definition of seven years of inactivity. The amendments will simply change the relevant time period from seven years to three years.

The Bill also contains transitional provisions that extend the date by which ADIs and life insurers must report on and transfer unclaimed moneys to ASIC next year by one month, from 31 March 2013 to 30 April 2013.

Other issues

Although the legislation governing FHSAs and Farm Management Deposits require providers (for example, ADIs) to make reasonable efforts to contact account owners, the current definition of an unclaimed bank account is longstanding and has never included a requirement for ADIs to attempt to contact customers. However, in practice, the majority of ADIs seek to contact customers whose accounts are at risk of becoming unclaimed moneys through letters, phone calls, and messages on monthly statements.

The unclaimed moneys provisions have existed for many decades and have never contained an exclusion for large accounts. This Bill does not change that. Where a large account balance has been lost due to the death of its owner it is extremely unlikely that the owner would have wished to bequeath their account to their bank, which would be the practical effect of imposing a size limit on which account balances may be treated as unclaimed moneys. Furthermore, the real value of large accounts is just as likely to be eroded by inflation as smaller account balances.

PART B - SUPERANNUATION (SCHEDULE 4)

Schedule 4 of the Bill amends the SUMLM Act to make a number of changes.

First, it will increase the account balance threshold below which lost accounts are required to be transferred to the ATO from $200 to $2,000, effective from 31 December 2012. A 'lost account' is one where the member is 'uncontactable', or the account has been inactive (no contribution or rollover) for a period of five years. A member is 'uncontactable' if and only if the super fund has never had an address for the member, or sent two written communications (or, if the provider chooses, one written communication) to the member's last known address and they were returned unclaimed. The definition of a 'lost member' excludes amounts supporting defined benefit interests, amounts held in self managed superannuation funds, or where the member has indicated that he or she wishes to continue to be a member of the fund.

Second, schedule 4 will reduce the period of inactivity before an account of an 'unidentifiable' member is required to be transferred to the ATO from five years to 12 months, effective from 31 December 2012. A member is 'unidentifiable' if the super fund is satisfied, based on the information reasonably available to the fund, that it will never be possible to pay an amount to that member. These amounts represent less than 0.1 per cent of superannuation.

Third, schedule 4 will provide for the payment of interest on superannuation accounts that are reclaimed from the ATO, accruing and payable from 1 July 2013. See *Payment of interest on unclaimed moneys* below for further information on interest.

Protecting small balances from erosion by fees and charges

Accounts with small balances held in superannuation funds are often eroded over time by fees, charges and insurance premiums.

Rice Warner[5] estimate that the overall fees for the whole superannuation industry, expressed as a percentage of assets, averaged 1.20 per cent for the year to 30 June 2011. Fees for small lost accounts can, however, be considerably higher than the industry average.

The Rice Warner analysis shows that fees for accounts with a low balance (i.e. $5,000) can be as much as three times the industry average (for example, 3.94 per cent for the small corporate master trust segment, 2.26 per cent for industry funds and 2.4 per cent for eligible rollover funds with balances of $5,000).

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[5] The Financial Services Council released the report 'Superannuation Fees Research – June 2012' which was prepared for it by Rice Warner Actuaries. The report is largely based on APRA data, supplemented by Rice Warner's own analysis.

The Treasury has undertaken an analysis of the impact that typical fees and charges can have on low super account balances. This analysis indicates that the return after the deduction of fees and insurance for balances of up to $2,000 is typically negative.

For example, an account in a typical fund with a balance of $2,000 at the beginning of the year will have reduced by around $135 for a 30-year-old to $1,865 in a year's time after fees and insurance premiums.

In cases where insurance benefits are still attached to lost super accounts, the insurance policy will not continue on transfer to the ATO, including existing lost super amounts transferred to the ATO. Cancellation already occurs within a number of funds when account balances fall below a given threshold or when accounts are transferred to an eligible rollover fund. It should be noted that individuals still engaged in the workforce, are likely to have another active account with insurance still attached.

The Treasury estimates that over a five-year period, protecting an account from fees and paying interest at a rate equivalent to CPI inflation could make a 20-year-old who currently has $1,000 inactive in super over $700 better off, and a 30-year-old who currently has $2,000 inactive in super over $1,000 better off.

The Treasury analysis is based on the ChantWest 10-year average net rate of return for balanced funds, average administration fees and default insurance across an indicative sample of industry and retail funds.

Uncontactable members

The ATO provides guidance on when a member is considered 'uncontactable' in their 'Lost members register – protocol document'. The non-response by a member to mail or an email that requests an action does not equate to 'returned unclaimed' mail. The regulations state that a member is considered 'uncontactable' if, and only if, two pieces of written communication sent to the member's last known address are returned unclaimed. However, the regulations also give the super provider the option to act upon one written communication sent to the member's last known address and returned unclaimed.

Under the *Superannuation Industry (Supervision) Act 1993*, trustees must "exercise, in relation to all matters affecting the entity, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide".

As a result, a fund must make a reasonable effort when trying to locate an uncontactable member. What is considered reasonable involves an element of judgment, and it depends upon the facts of the case and the environment in which the issue is being examined. Examples of follow-up action to make contact with a member if they are considered lost could include the following (in addition to mail outs):

- checking the super provider's own data to see if the member has other accounts with more current information;

- contacting an employer in cases where the employer is contributing to the account; and
- engaging a company like Australia Post to undertake database searches to locate the member.

In these circumstances, the super provider would utilise the return of unclaimed mail as a trigger to undertake additional thorough searches to locate the member.

The ATO's protocol document however, does not expect super providers to pursue information or activities at all costs, but to base their efforts on what would normally be required in the circumstances, having regard to the environment.

Unidentifiable members

The second much smaller component of the superannuation changes relates to accounts of 'unidentifiable' members. Only for these accounts, will amounts be transferred to the ATO after 12 months of inactivity rather than five years as is currently the case. These amounts represent less than 0.1 per cent of superannuation.

Accounts of 'unidentifiable' members are also known as 'insoluble lost member accounts'. These are accounts where the super fund is satisfied, based on the information reasonably available to the fund, that it will never be possible to pay an amount to that member. This would be satisfied if, for example, the super fund was missing both the member's full name and tax file number.

Reducing the period of time that a super fund can hold these accounts will encourage super funds to make further inquiries to discover who the owner of the account is, during the period when contributions are being made.

A number of individuals have incorrectly stated that all super accounts that have been inactive for 12 months will be transferred to the ATO. This is false. Only the tiny proportion of accounts where the member is 'unidentifiable' will be transferred to the ATO after 12 months of inactivity rather than five years as is currently the case.

Strategies to reunite members with lost super accounts

The ATO has a number of strategies in place to help reunite members with lost super accounts, aiming to reduce the number of unnecessary and inactive accounts. The success of these ATO programs has helped reunite over 1 million people with around $5.5 billion in lost superannuation. For the first time, the value of lost and unclaimed superannuation decreased in 2011-12, from $20.9 billion as at 30 June 2011 to $17.7 billion as at 30 June 2012.

Individuals are able to claim back monies from the Commissioner at any time. In most cases super monies will need to be transferred into an account nominated by the member, however the monies can be paid directly to the member where a condition of release has been met (for example, the person is over 65 or the balance is less than $200).

The ATO has various strategies in place to reunite people with super amounts transferred to them. All of the strategies described below are underpinned by ATO data matching work to identify the tax file number (TFN) and new address of members. The ATO can access its data holdings across a range of tax and superannuation systems and third party data. Once successfully matched to the owner of a TFN, these accounts can then be displayed on the ATO's free online service, SuperSeeker.

The ATO strongly promotes the SuperSeeker service in the media and through other outlets to encourage individuals to search for lost super. SuperSeeker continues to be one of the ATO's highest utilised online services. During the 2011-12 financial year, there were 1.37 million SuperSeeker searches undertaken.

Members can use SuperSeeker to locate active superannuation accounts, lost superannuation accounts, and superannuation monies held by the ATO. Currently, SuperSeeker can help you lodge a request with your fund online if you wish to transfer your super to another super account. In addition to the online service, members can also use the SuperSeeker service by phoning the ATO and either asking ATO staff to conduct the search on their behalf, or using the interactive voice response service.

Where ATO held superannuation is located, members can complete a portability form or claim form to initiate a rollover to their current fund, and in certain circumstances withdraw the funds. From 2014, members will be able to complete an electronic claim form to rollover or claim these amounts.

The ATO also provides super funds with a search facility to allow them to check, with member consent, for any ATO held monies. Funds are required to notify the member of the results of these searches and to seek the consent of members to arrange rollover into a super account nominated by the member.

The Government will consult further on additional ways to facilitate the process of reuniting members with their lost accounts.

ATO activities to reduce number of accounts which become lost

The ATO has worked to reduce the number of accounts and members which become uncontactable. The ATO has manually matched lost superannuation accounts and notified members of their lost superannuation through letters and phone calls. The letters and phone calls encourage taxpayers to get in touch with their fund and update their details, or to consider consolidating their accounts. As part of the letter campaign, the ATO also provides portability forms to members to encourage them to consolidate their accounts. If the member wishes to consolidate, they may do so by using SuperSeeker, completing the portability form, or contacting their active fund to begin the process.

The ATO also provides current address information to funds, allowing them to re-establish contact with their members. During the 2011-12 year, the ATO provided around 1.4 million addresses to funds, helping them reunite over 1 million people with approximately $5.5 billion in lost superannuation.

Proactive payment of unclaimed superannuation under $200

The ATO has also commenced making proactive payments of unclaimed super balances under $200. The ATO has access to data arising from direct lodgement of information by individuals and third party data providers, which allows it to obtain updated addresses. When an account is successfully matched, a cheque is automatically issued to the member, without the need for a claim form to be lodged. Since its commencement in June 2012, the ATO has issued nearly 153,000 cheques worth $11.6 million.

PART C - CORPORATIONS (SCHEDULE 5)

Schedule 5 of the Bill amends the current regime that applies to unclaimed moneys that arise under the Corporations Act, and closes the Companies and Unclaimed Moneys Special Account (CUMSA) established under the ASIC Act.

The amendments also provide for the payment of interest on these unclaimed moneys, accruing and payable from 1 July 2013. See *Payment of interest on unclaimed moneys* below for further information on interest.

Current operation of the corporations unclaimed money regime

CUMSA is a longstanding feature of the corporations legislation. It pre-dates the current legislative and regulatory regime that is established under Commonwealth legislation, specifically the Corporations Act supported by referrals of power by the States. Currently, once company money is classified as 'unclaimed' (or results from the sale of property which is classified as unclaimed), it is credited to CUMSA. If an amount is not reclaimed from CUMSA within six years after it was originally credited to CUMSA, the amount is debited from CUMSA and transferred to ASIC. ASIC must pay the claimant their money if satisfied they are entitled to the amount, either out of CUMSA or out of money appropriated by Parliament for that purpose if it has already been debited from CUMSA.

At present, the ASIC Act provides that CUMSA is also to be credited with interest received by ASIC from the investment of the CUMSA balance. Interest accrued on the balance in CUMSA may be used to fund proposals determined by the Minister to reduce business costs and improve regulation. There is currently no scope to pay that interest to the owners of the unclaimed moneys.

Classification of money and property as 'unclaimed' under the corporations legislation

Unclaimed company moneys can arise in a number of ways under the Corporations Act. The Bill does not change the current law relating to when company money or property is classified as being 'unclaimed', or the time periods that currently determine when moneys become 'unclaimed' under the Corporations Act.

Examples of unclaimed moneys under the Corporations Act include:

- moneys arising after a compulsory acquisition of securities, where the person cannot be found for 12 months;
- where a company cannot contact a shareholder for more than six years; or
- where there is money that is the property of a deregistered company, or unclaimed money after the liquidation of a company.

The existing provisions of the Corporations Act set out the processes to be followed in relation to the money or property (where relevant), and are not changed by this Bill.

Treatment of company unclaimed moneys under the Bill

As a result of the closure of CUMSA, once money is classified as 'unclaimed' under the Corporations Act, it will be immediately transferred to ASIC, rather being credited to CUMSA. The amendments in Schedule 5 do not affect peoples' entitlement to receive their unclaimed money. Claimants of unclaimed money will continue to be able to follow the existing procedure to reclaim their money (for example, through ASIC's MoneySmart website). Payments to claimants will be made out of money appropriated by Parliament for that purpose. For the first time, interest will also be paid on these unclaimed moneys, at the rate of CPI inflation.

PART D - PAYMENT OF INTEREST ON UNCLAIMED MONEYS

At present, no interest is payable on amounts that are classified as 'unclaimed' under the relevant provisions of the Banking Act, the FHSAs Act, the LI Act, the SUMLM Act and the Corporations Act. As a result, previously unclaimed amounts that are repaid to claimants (should they reclaim their money) are not indexed to take account of the time that has elapsed since the money was classified as 'unclaimed'.

The Bill provides that owners of unclaimed money will be entitled to a payment of interest on that money, which will be calculated according to the regulations. The interest accrues, and is payable, from 1 July 2013. The regulations may prescribe different rates for different periods over which interest accrues.

The Government has announced that interest will be paid at the rate of CPI inflation. The Government also intends to introduce legislation in early 2013 to exempt the interest from tax.

In each of the acts concerned, the interest is paid by the same entity or authority that pays the unclaimed money to a claimant, specifically:

- the ADI, under the Banking Act;
- the FHSA provider, under the FHSAs Act;
- the Treasurer, under the LI Act;
- the Commissioner, under the SUMLM Act; and
- ASIC, under the Corporations Act.

PART E - TIMING

ADIs and life insurers are required by the Banking Act, FHSAs Act and LI Act to assess unclaimed amounts as at 31 December and submit those amounts to ASIC by 31 March of the following year. The Bill contains transitional provisions that extend the date by which ADIs and life insurers must report on and transfer unclaimed moneys to ASIC next year by one month to 30 April 2013. Typically, however, ADIs and life insurers start making payments in January.

Superannuation funds are required by the SUMLM Act to assess unclaimed amounts as at 31 December and 30 June, and submit those amounts to the ATO by 30 April and 31 October respectively.

The Government has indicated that the amendments are intended to take effect from 31 December 2012. However many ADIs, life insurers and superannuation funds are reluctant to make changes to their unclaimed money systems until the Bill has passed the Parliament. Failure to pass the Bill this year will therefore create considerable uncertainty for these organisations, and result in increased inconvenience and likely higher implementation costs for many organisations in early 2013.

As discussed in the sections above, these amendments will provide benefits worth many millions of dollars to the owners and beneficiaries of lost accounts, by protecting them from erosion by inflation and fees, and helping to reunite them with their owners sooner. These benefits will be put at risk if the Bill does not pass the Parliament by the end of this year, given it would result in organisations not making the system changes required to implement the amendments.

CONCLUSION

The Bill will improve the current arrangements for unclaimed bank accounts, life insurance policies, superannuation accounts and company moneys, to help reunite these lost accounts with their owners sooner, and prevent them from being eroded by inflation and fees. The changes include paying interest on unclaimed moneys for the first time, to ensure they maintain their real value over time. This interest will be paid at the rate of CPI inflation and will be tax free.