



Association of
Financial Advisers

Submission on:

**SEC – Inquiry into Treasury Legislation Amendment
(Unclaimed Money and Other Measures) Bill 2012**

Submission: Association of Financial Advisers Ltd

12 November, 2012

12 November 2012

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

Email: economics.sen@aph.gov.au

Dear Mr Bryant,

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

The Association Of Financial Advisers Limited ("AFA") has been serving the financial advising industry for over 65 years. Its aim is to provide members with a robust united voice, continually improve practices and focus firmly on the exciting, dynamic future of the financial advising industry. The AFA also holds the client to be at the centre of the advice relationship and thus support policies that are good for consumers and their wealth outcomes.

With over six and half decades of success behind it, the AFA's ongoing relevance is due to its philosophy of being an association of advisers run by advisers. This means advisers set the agenda, decide which issues to tackle and shape the organisation's strategic plan.

The AFA thanks the SEC for the opportunity to provide a submission on the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012 ("Unclaimed Money Bill"). This submission has been prepared by the AFA on behalf of its members and in response to the Unclaimed Money Bill.

The AFA has the following key concerns with the Unclaimed Money Bill:

Consumer Loss

- The original unclaimed money legislation is based around funds being moved to ASIC, the ATO or Consolidated Revenue, but only after it is clear that the account is lost. The proposals in this legislation now make it much more likely that money will be transferred when it is not lost, and consumers will then be faced with the negative consequences of reduced earnings and the complexity of seeking recovery.
- In the context of Banking and First Home Saver Accounts, reducing the period from seven years to three years makes it much more likely that money will be removed, when it is not lost. There will be many cases where a financial advice client would have money sitting in a savings account, where over a three year period there would be no deposits or withdrawals. This account might be a high interest account, where the client operates transactions through a separate transaction account. The access to the higher interest rates may be dependent upon the absence of transactions, so requiring a transaction in order to avoid having the money transferred to the Government may cause a reduction in the interest rate, and a loss to the client.
- In the case of Life Insurance, there may be less reasons for why money would be unclaimed for up to 7 years, however it is possible that this might be whilst the policy owner is deciding what to do with the money. In this case we question whether 3 years is appropriate.
- It is necessary to be careful as to the definition of uncontactable. With many people now more reliant on emails, it might be the email address and the phone contact details that are more important than the home address. Simply treating the account balance as unclaimed money, due to returned mail is problematic. Having their account balance transferred to the ATO is likely to lead to a reduction in fund earnings and significant administrative complexity to recover.
- It is not uncommon for a superannuation member to retain an inactive account for the purposes of the continuation of insurance. This is a deliberate strategy, where the existing insurance is better than the alternative. In this case, the member might top up the fund from time to time to ensure that there is sufficient funds to pay the insurance. It is possible that at the end of a 5 year period, where there have been no further contributions, the balance has fallen to under \$2,000. There is a genuine risk that this legislation might lead to superannuation fund members losing insurance that they intentionally held via an account that does not receive regular contributions. We believe that it is critical with inactive accounts, that the fund administrator is required to provide an appropriate opt-out option, so that members can respond, in order to avoid having their accounts closed.
- It appears, in the case of unidentifiable superannuation members, that once the money has been transferred to the ATO, it will be most unlikely that the money would ever be returned to the member. For this reason it seems that it would be better to leave it with the superannuation fund for the full 5 years, in order to maximize the likelihood of it being reunited with the member. 12 months is clearly too short in this context. In order to better address the issue of unidentifiable accounts, the AFA believes that it is more important to ensure that measures are taken so that superannuation accounts are set up correctly at the beginning.

The Use of Examples

- Paragraph 4.10 refers to examples of a 20 year old and a 30 year old, and refers to the reduction in the account balances as a result of insurance and fees over a 5 year period. In many cases the insurance may discontinue once an employee has left an employer, so this example is not necessarily illustrative. Further if insurance did exist then this would be an asset to the member in the event of a claimable event.
- We question the reference to the savings quoted in paragraph 4.11, as these savings are only going to be achieved in the specific cases where insurance is also being paid for. This would be completely unrepresentative if there was no insurance cover. It is inappropriate to include comparisons of this nature, without appropriate reference. It is also based upon the loss of insurance cover.

Administrative Complexity

- The AFA is concerned about the extra complexity involved in the recovery of unclaimed moneys, relative to the efforts that may be required with respect to contacting the current bank/fund. The services that are provided by the ATO, with respect to lost superannuation, make it relatively easy to find lost super. Where the money has been moved to Consolidated Revenue, there will be additional complexity for the account holder/member. The exact procedures for recovery have not been adequately explained.

Strategies to Reunite People with their Unclaimed Money

- Chapter 6 of the Explanatory Memorandum, in the overview, states that these amendments will enhance the current strategies employed by ASIC and the ATO to reunite people with their unclaimed moneys. It is unclear to us, what these enhanced strategies are.

Regulatory Impact Assessment

- We note with interest the details provided in the Explanatory Memorandum about the Financial Impact, and in particular the sums of money that will be paid into Consolidated Revenue, particularly from superannuation accounts. If you assumed that the average account balance was \$1,000, then this would mean that up to 675,000 Australians are going to have their superannuation savings transferred to the government over the next 4 years. To have come up with the budget estimates, the Government must have projections for how many accounts will be transferred to Consolidated Revenue and how many are likely to be claimed back. These projections should be released.
- The budget impact, suggests that much of this money will not be claimed back. Thus if the objective is to reunite people with their lost savings, then this legislative amendment seems to be unlikely to achieve that outcome.

Appropriateness of Budget Treatment

- The transfer of this money directly into Consolidated Revenue raises concerns about whether this is the appropriate treatment of this money. The fact that it is money belonging to Australians, that the Government needs to repay, makes it clear that it is a liability of the Government and not a revenue. It should be accounted for in an appropriate manner.
- The closure of the Company and Unclaimed Moneys Special Account (CUMSA), in Schedule 5, appears to be entirely based upon the alternative accounting treatment for this, by crediting the money directly to Consolidated Revenue, rather than paying it into CUMSA and holding it for the benefit of the owners of the money.

Conclusion

The AFA is concerned that these changes will lead to increased problems for account holders and superannuation members, along with reduced earnings and lost benefits. We do not believe that this legislation will do anything to increase the likelihood of Australians being reunited with lost or unclaimed money. We seek the input of the SEC to consider the issues above and to incorporate appropriate suggestions in your report to Government.

Should you have any questions, then please do not hesitate to contact me on (

Yours sincerely,

Richard Klipin

Chief Executive Officer
Association of Financial Advisers Ltd