

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates

1 June 2010

**Question:**               **BET 86**

**Topic:**                   **Superannuation Fraud (ATO)**

**Hansard Page:**       **E8**

**Senator EGGLESTON asked:**

**Senator EGGLESTON**—This is about superannuation fraud and police investigation of a scam using superannuation fraud and transferring funds, using a false identity, to other accounts. This has been under investigation in New South Wales. I understand the minister, in 2009, put a public watch out for superannuation scams which, of course, would concern everybody. It has been said the real problem is that the police are frustrated because private and self-managed funds refuse to provide details of their accounts, on the grounds of privacy. The question has been put to me to ask whether or not a different body should be administering private and self-managed insurance funds, because there appears to be a degree of fraud in that area. Do you have any comment on that, Minister?

**Senator Sherry**—The self-managed super funds sector is overseen by the ATO, so issues in respect of the self-managed super funds sector would not come to APRA. The only issue, and there might be some comment about this, is that I am aware there have been actual cases of fraud involving false self-managed super funds established in order to access funds from prudentially regulated funds, which would fall into APRA's area. One of the officers might like to make some comment about that aspect, but the oversight of SMSFs is for the ATO.

**Mr Venkatramani**—We have been working very closely, apart from with the industry, with the ATO in terms of transfers between other funds and their funds, as well as with the federal police with reference to general criminal activity in terms of identity theft et cetera. Following on from that we have recently issued guidance to other own entity trustees, giving clear guidance as to what other things they should be looking for and what proactive steps they can take to minimise fraud. In doing this, obviously we feel one aspect of the operational risk management of trustees will require a proper risk management framework and controls, and we also need to be mindful of doing it in such a fashion to balance it so that legitimate requests for transfers are not stymied. So it is something that we are working on constantly with the industry, making presentations, and we have even suggested to the industry that where fraud occurs, or attempted fraud occurs, the industry would be better off sharing that information to form defences against fraudsters.

**Senator EGGLESTON**—That sounds like a very sensible idea. I am advised the Federal Police have not taken action on these matters for over 12 months, in spite of warnings given to them. It was suggested that there should be amendments to strengthen proof of identity and security of transfer provisions. What is the scale of this problem of removal of funds from superannuation funds through fraud? Is that a question for this group?

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

##### Budget Estimates

1 June 2010

**Senator Sherry**—I do know that the ATO, who are responsible for the self-managed super funds sector, would have some further information they could provide. It is not my direct ministerial remit, but I am aware that the ATO has been issuing warnings and actually giving some examples of the way in which the SMSF is used illegally as a vehicle to access funds from superannuation via transfer from an APRA regulated fund. As I have indicated, that aspect of this matter, and it is the SMSF that is used as the vehicle for illegal access and fraud, is a matter for the ATO. I will take your question on notice, because I am confident the ATO could provide some more detailed information on this, and we will provide that to you.

#### **Answer:**

The Australian Taxation Office (ATO) has had a significant focus on these schemes over the past two years. The Commissioner of Taxation raised concerns about this matter issuing a Taxpayer Alert<sup>1</sup> on 8 January 2009 warning about the operation of illegal access schemes.

This was followed with a program of work that included: a marketing campaign targeting ‘at risk’ individuals and communities; expanding the ATO’s audit program covering participants, self managed superannuation funds and promoters; and working with other Government agencies to pursue promoters, including prosecuting these individuals when appropriate.

During the 2009-10 financial year, the ATO completed over 1,100 audits of promoters, self managed superannuation funds and participants relating to these schemes. The ATO also halted 662 self managed superannuation funds from accessing rollovers and froze the assets of 22 bank accounts.

Where the ATO has identified victims of fraud, immediate steps have been taken to ensure the protection of their identity and taxation records. Victims were advised to report the theft of their benefits to the relevant State Police force and to contact their superannuation fund(s) to ensure that any future entitlements are protected.

The ATO, together with Australian Prudential Regulatory Authority (APRA), has worked with the superannuation industry to address illegal early access schemes and minimise identify fraud and theft of individuals benefits. As a result, rollover guidelines<sup>2</sup> were issued on 5 February 2010 with further advice provided on 5 May 2010 to the superannuation industry.

As part of this program of work the ATO has:

- introduced a detection process to identify and prevent registrations of self managed superannuation funds where there is a high risk that the funds are

---

<sup>1</sup> Taxpayer Alert 2009/1 [Superannuation Illegal Early Release Arrangements](#)

<sup>2</sup> [Managing the risk of the illegal early release of superannuation benefits](#) 5 February 2010 and self managed superannuation funds [identity fraud and theft of superannuation benefits](#) 5 May 2010

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

##### Budget Estimates

1 June 2010

- intended to be used for illegal access. This has already prevented 165 high risk registrations from ever operating
- provided practical intelligence to the superannuation industry to help them identify suspect rollovers, including suspect postal addresses and new scheme trends
  - provided an escalation point for APRA regulated funds to raise any scheme or fraud issues with a response time usually within 48 hours, and
  - relaunched its public register of self managed superannuation funds at [www.superfundlookup.gov.au](http://www.superfundlookup.gov.au), to provide additional information to help APRA regulated funds identify the level of risk when receiving rollover requests.

The ATO is currently focused on improving the transparency of rollovers to self managed superannuation funds by, for example, displaying trustee information on its register of self managed superannuation funds. Consultation has recently commenced with the industry on how to best provide a new service to reduce the risk of these schemes. The ATO believes that the result of these measures and the greater vigilance of the large funds is that it is now much easier to detect and prevent this activity.