

Options for improving the Unclaimed Bank Account and Life Insurance Money Provisions

Submission by the Financial Rights Legal Centre

The Financial Rights Legal Centre (*formerly known as the Consumer Credit Legal Centre (NSW)*) is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the Credit & Debt Hotline, which is the first port of call for NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. Financial Rights took over 20,000 calls for advice or assistance during the 2012/2013 financial year.

Financial Rights also conducts research and collect data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

Thank you for the opportunity to comment on the Discussion Paper: Options for improving the Unclaimed Bank Account and Life Insurance Money Provisions. The Financial Rights Legal Centre makes the following submissions regarding the Options listed in the Discussion Paper:

1. We support extending the required period of inactivity for bank accounts and life insurance policies to 5 years (being Option 2 in the Discussion Paper). We contend that Option 2 strikes the right balance of:
 - Giving adequate time for consumers to collect any money;
 - Maintaining their relationship with their financial institution; and
 - Providing a reasonable time period of 5 years when it is clear the consumer has forgotten the money and it is actually unclaimed.
2. We also submit that consumers must be notified in writing prior to the unclaimed moneys being sent to ASIC.

The Credit and Debt Hotline has received complaints from consumers who have been shocked by the loss of their funds. They are particularly concerned when they have received no notification of the funds being transferred prior to the event.

Case Study

David received a modest inheritance after his mother passed. He put it in a high interest savings account with the same lender as his mortgage, to keep it for a rainy day. He did not give it much thought. Some years later, he wanted to use the funds to pay for some mortgage payments. He went to access the funds to be told they had been transferred to consolidated funds. David was incensed. He received no notification. He was told he had to lodge all of identification documents to the bank to get the funds back. It took 5 months for him to get the money back.

3. We support the current exemptions as set out in the Discussion Paper.
4. We submit that the publishing of consumer details in the gazette is inconsistent with the Australian Privacy Principles. We strongly contend that:
 - Only a minimum of personal details should be available publicly (for example, name only);
 - ASIC should keep further details known private;
 - Any application for unclaimed money can be checked against the details held privately by ASIC to ensure the claim is genuine;
 - Consumers' names should not be published in a Gazette; and finally
 - Tax File Numbers (TFN) should not be transferred between the ATO and ASIC as TFNs are sensitive personal information.

Already in the market there are a number of "fee based" services who seek to assist consumers to recover unclaimed funds. By allowing more personal information to be easily accessible it increases the potential for potentially unscrupulous business to profiteer from consumers who may not be aware of how they can recover their funds for free.

Concluding Remarks

Thank you again for the opportunity to comment on the Discussion Paper. If you have any questions or concerns regarding this submission please do not hesitate to contact the Financial Rights Legal Centre on (02) 9212 4216.

Kind Regards,



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