

11 July 2014

Banking and Capital Markets Regulation Unit (BCMRU)  
Financial System and Services Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [unclaimedmoneys@treasury.gov.au](mailto:unclaimedmoneys@treasury.gov.au)

Dear Sir/Madam

**DISCUSSION PAPER – OPTIONS FOR IMPROVING THE UNCLAIMED BANK ACCOUNT AND LIFE INSURANCE MONEY PROVISIONS**

Thank you for the opportunity to make this submission in response to the *Options for improving the Unclaimed Bank Account and Life Insurance Money Provisions Discussion Paper* (Discussion Paper).

The Financial Services Council (FSC) represents Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks, trustee companies and public trustees. The FSC has over 125 members who are responsible for investing more than \$2.2 trillion.

The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the fourth largest pool of managed funds in the world. The FSC promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.

The FSC supports the Government's objective to improve productivity and efficiency in the economy through reducing regulatory burden on business. The FSC submits that the current arrangements in relation to the unclaimed life insurance money provisions create unnecessary complexity, are inefficient and do not achieve the stated objective of balancing the protection of the value of the account holder's funds with effectively reuniting account holders with their money.

Under the existing arrangements, all unclaimed money in relation to life policies is dealt with under section 216 of the *Life Insurance Act 1995* (Life Act). This provision requires the payment of the amounts payable to the Australian Securities and Investments Commission (ASIC) on behalf of the Commonwealth.

However, unclaimed moneys in relation to life insurance policies in Australia can be divided into two types of business – ‘ordinary business’ or ‘superannuation business’. We submit that there should be two different solutions with respect to unclaimed moneys reflecting the different nature of each business.

### Ordinary Business

Ordinary life insurance business in Australia includes a range of products including:

- risk-based insurance;
- non-superannuation annuities;
- whole of life products;
- endowments; and
- insurance bonds.

With the exception of risk-based insurance which accounts for the overwhelming majority of new business premium, such products have the potential for unclaimed moneys to exist in the system. The majority of these products are also closed to new business and considered ‘legacy’ products by life insurers.

As noted earlier, section 216 of the Life Act contains the provisions which regulate the process for identifying ‘lost policyholders’ and/or the transfer of unclaimed moneys to ASIC. We submit that the section 216 provisions, even after the 2012 amendments, are complex, expensive to administer and do not adequately reflect the nature of ordinary life business products. For example, the triggers outlined in the provisions which determine when a policy becomes payable to ASIC are based on the concept of a ‘maturity date’ which does not necessarily eventuate in each of the product types noted, particularly where the product includes payment of an ongoing income stream.

We submit that to ensure the efficiency and effectiveness of the regime, these provisions should be amended to ensure that they account for the variety of product types that are regulated by them.

#### RECOMMENDATION:

The FSC recommends the Government consult with the life insurance industry to implement appropriate amendments to section 216 of the Life Act to ensure that it reflects the variety of products it regulates.

Unlike lost superannuation money, which is paid by the product provider to the Australian Tax Office (ATO) and then when reunited with the account holder, paid directly by the ATO to the account holder, the process for reuniting a policyholder with their funds is more complicated, as follows:

- the issuer sends unclaimed money to ASIC/ Consolidated Revenue;
- ASIC lists the unclaimed money on a publicly available website;
- if a person has a claim, ASIC tells the person to approach the issuer;
- the issuer claims the money from ASIC
- the issuer receives the money from ASIC, re-instates the person on the product, closes the product and pays the person.

We submit that these arrangements are unnecessarily complex, increase administrative and systems costs and are ultimately inefficient for the consumer and the industry.

RECOMMENDATION:

The FSC recommends the unclaimed money provisions in relation to the process for reuniting a consumer with their policy proceeds be amended to be administered in a manner consistent with lost superannuation arrangements to allow either:

- a. the insurer to retain the funds and simply report the 'lost policyholder' to ASIC for publication on the register; or
- b. where amounts have been paid to ASIC, if/when the policyholder is located and the funds become repayable to the consumer, the payment should be made directly by ASIC.

Superannuation Business

'Superannuation business' in the context of unclaimed moneys held by a life company typically relates to deferred annuity products.

As outlined earlier, under the existing arrangements all unclaimed money in relation to life policies, including 'superannuation business', is dealt with under section 216 of the Life Act. As noted, this provision requires the payment of the amounts payable to the Australian Securities and Investments Commission (ASIC) on behalf of the Commonwealth.

Unclaimed superannuation money from superannuation funds trustees and Retirement Savings Account (RSA) providers is paid to the ATO (rather than ASIC) on behalf of the Commonwealth, and the ATO maintains a searchable lost money register. Given the publicity of this register, we believe most people are likely to look to the ATO for their lost superannuation (including lost superannuation arising from annuities). We submit that people are unlikely to look for lost superannuation money through ASIC.

Therefore, we submit that it would be more appropriate to deal with unclaimed money in relation to superannuation annuities in the same way as unclaimed money and lost members are dealt with in the superannuation environment generally.

In other words, the same regime should apply to superannuation business of a life company as applies to superannuation fund trustees and RSA providers. This would treat like money with like, rather than concentrate on the legal form and, in our view, would produce better outcomes for policy owners who have invested superannuation money.

RECOMMENDATION:

The FSC recommends the Government consult with the life insurance industry to implement amendments to the Life Act and the Superannuation (Unclaimed Money and Lost Members) Act and Regulations to treat lost and unclaimed life insurance policies that are 'superannuation business' in a manner consistent with other lost superannuation arrangements.

The FSC would welcome the opportunity to consult with Government in further detail in relation to the legislative amendments that would be necessary to implement changes to the Unclaimed Moneys Provisions for life insurance products as recommended in this submission.

Please feel free to contact me on (02) 9299 3022 should you wish to discuss this submission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Holly Dorber', with a stylized flourish at the end.

Holly Dorber

Senior Policy Manager, Life Insurance