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Manager
Benefits and Regulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: strongersuper@treasury.gov.au

Dear Louise

Exposure draft: SMSFs – acquisition and disposal of certain assets to related parties

CPA Australia represents the diverse interests of more than 144,000 members in 127 countries. Our vision is to make CPA Australia the global accountancy designation for strategic business leaders. We welcome the opportunity to provide comment on the draft legislation enacting the measures relating to the acquisition and disposal of assets to related parties for self-managed superannuation funds.

CPA Australia does not support the introduction of this measure. We believe it is inequitable to restrict SMSFs from transacting effectively and efficiently off-market when there is no demonstrable evidence of abuse and this avenue remains available to all other investors, including APRA regulated funds and individuals. This measure will increase costs for SMSFs. We believe there are other more effective ways to address potential manipulation without adversely impacting SMSFs.

Notwithstanding our objections, having reviewed the draft legislation, we believe it should implement the measure as intended, although it is difficult to comment categorically when most of the detail will be contained in the regulations, which we are yet to see.

The one issue we do have is with the requirement in subsection 66B(3) for the disposal of assets to related parties being on-market or with an independent valuation. There may be situations where a market does not exist for an asset or an independent valuation cannot be obtained cost effectively for a low value asset or at all and a fund would be prevented from disposing of an asset. This would be particularly problematic where trustees are trying to wind up a fund and are thus prevented from doing so. As such, we suggest a provision should be included in the regulations so that where there is no market and the trustee is unable to obtain an independent valuation after taking reasonable steps to do so, the trustee should be able to use their own valuation provided they can demonstrate a reasonable basis for it and it is documented.

If you have any questions regarding our comments, please do not hesitate to contact me on 02 6267 8552.

Yours faithfully

A handwritten signature in black ink that reads "Michael Davison". The signature is written in a cursive style with a large, prominent 'M' and 'D'.

Michael Davison
Senior Policy Adviser - Superannuation

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