Institute of Chartered Accountants Australia

31 October 2012

Ms Louise Lilley
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 Regulations – prescribed period for SMSF audit report**

The Institute of Chartered Accountants in Australia (the Institute) would like to take this opportunity to make the following comments in relation to the draft legislation for the prescribed period of SMSF audit report.

The Institute is the professional body for Chartered Accountants in Australia and members operating throughout the world.

Representing more than 70,000 current and future professionals and business leaders, the Institute has a pivotal role in upholding financial integrity in society. Members strive to uphold the profession's commitment to ethics and quality in everything they do, alongside an unwavering dedication to act in the public interest.

Chartered Accountants hold diverse positions across the business community, as well as in professional services, government, not-for-profit, education and academia. The leadership and business acumen of members underpin the Institute's deep knowledge base in a broad range of policy areas impacting the Australian economy and domestic and international capital markets.

The Institute of Chartered Accountants Australia was established by Royal Charter in 1928 and today has around 60,000 members and more than 12,000 talented graduates working and undertaking the Chartered Accountants Program.

The Institute is a founding member of the Global Accounting Alliance (GAA), which is an international coalition of accounting bodies and an 800,000-strong network of professionals and leaders worldwide.

If you have any questions regarding our submission, please do not hesitate to contact me on 02 9290 5704 or via email on liz.westover@charteredaccountants.com.au.

Yours sincerely,

Liz Westover
**Head of Superannuation**


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## General comments

The Institute supports the broad objective of the exposure draft to amend the regulations to ensure auditors do not contravene the SIS Regulations where they cannot provide an audit report to SMSF trustees by the day before the due date of lodgement of an SMSFs annual return, due to circumstances beyond their control.

This submission seeks to comment on whether the amendments appropriately meet that objective. We are concerned that the measures proposed in the draft regulations may not reflect some of the practicalities of SMSF audits.

We encourage further consideration of the practicalities of SMSF audits, including a range of other circumstances that would give rise to delays in the issue of an audit report.

## Specific comments

### Regulation 8.03 (a) – Period within which audit report must be given

We are concerned that the new provisions do not give flexibility in relation to auditors who seek further information from third parties as a part of the audit process. Frequently, the information required by an auditor will come from third parties and in fact may be required in order that they satisfy their professional obligations under the auditing standards. This and other factors may impact on the ability of an auditor to issue an audit report in a timely manner – information from a trustee is usually the starting point for an audit and rarely the last of the information required.

The Institute firmly believes that the provision of an audit report is closely aligned with the receipt of timely information from a range of sources not only SMSF trustees. The proposed regulation only deals with the provision of information from trustees however, where the nature and type of information provided initially may be insufficient, auditors frequently seek further information from external third parties such as a bank or an independent qualified valuer. The proposed regulation gives no relief where delays may occur due to these third parties, which is beyond the control of the auditor or the trustee. Delays caused by the bank in issuing the required certificate results in potential delays in the issuing of an audit report despite all endeavors by the auditor and trustee to obtain this information in a timely manner.

In line with the above, auditors need to exercise their own professional judgement in forming an audit opinion for a particular SMSF and auditors may require additional information to satisfy themselves that they can form an opinion. Prescribing the proposed timeframe for the issue of an audit report runs the risk of forcing auditors to form an opinion without adequate evidence to do so, or issue an audit report stating they were unable to form an opinion at all due to insufficient supporting evidence. Practically neither of these outcomes are desirable. A better outcome is to allow for the collection of all relevant information and for the auditor to issue an unqualified audit report (as appropriate).

We would therefore suggest wording to the effect of:

> *If the report is in respect of a self managed superannuation fund, 28 days after the later of:*
> 
> *i. the trustee of the fund has provided to the auditor all documents relevant to the preparation of the report; or*
> 
> *ii. the auditor attains, following reasonable endeavours, relevant information from a third party, deemed to be necessary to form an opinion on the operation of a fund.*

## Penalties

The Institute supports the Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Bill 2012 proposal to repeal the current Section 35C (7) which would otherwise give rise to an SMSF auditor committing an offence subject to a penalty of 6 months imprisonment, if they contravened Section 35C (6) by failing to provide an audit report within the prescribed period.