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The Manager, Contributions and Accumulations Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: intrafundconsolidation@treasury.gov.au

13 April 2012

Subject: **Intra fund consolidation of superannuation**

Dear Sir/Madam

Thank you for the opportunity to comment on the exposure draft of the proposed legislation.

Who is Mercer?

Mercer is a leading global provider of consulting, outsourcing and investment services, with more than 25,000 institutional clients worldwide. Mercer consultants help employers design and manage health, retirement and other benefits, and optimise human capital.

Mercer also provides customised administration, technology and total benefits outsourcing solutions to a large number of employer clients and superannuation funds (including industry funds, master trusts and employer sponsored superannuation funds). Mercer's outsourcing business has \$40 billion in funds under administration locally, provides services to over a million super members and 20,000 private clients and is part of a global consulting, outsourcing and investments firm which operates in 42 countries.

We provide our own master trust the Mercer Super Trust in Australia which has approximately 270 participating employers, 240,000 members and more than \$15 billion in assets under management. Mercer's investment services include global leadership in investment consulting and multi-manager investment management. We also provide personal financial advisory services for individuals including Self Managed Superannuation Funds.

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Executive summary

We consider that the exposure draft:

- adds further confusion to the overall MySuper requirements
- does not appear to adequately implement the Government's intention in relation to automatic consolidation of inactive super accounts of a member within a fund
- is unclear and uncertain in a number of aspects, raising additional compliance costs and risk issues for trustees and administrators of super funds
- does not adequately protect members who may want to maintain separate accounts

Further, we note that it is not possible to conduct a proper analysis of the exposure draft until other outstanding legislation in relation to MySuper and Choice products is available.

The deficiencies and confusion in the exposure draft (as well as the lack of full legislation) highlight further the extreme difficulties that many trustees will face in ensuring that they have a MySuper product in place by 1 October 2013.

We suggest implementation of the new measures be deferred until 1 July 2013 i.e. at least the first 12 month period in which consolidation is required to occur should only commence on 1 July 2013

This would enable the legislation to operate in conjunction with account consolidation that is expected to occur with MySuper's introduction from 1 July 2013 initially on a voluntary basis and by 1 July 2017 on a compulsory basis i.e. so that funds are more likely to incur only one or two rounds of account consolidation costs rather than three.

We note that members for whom consolidation occurs cannot be charged for the service provided and those total costs typically will be borne by the fund membership as a whole.

Due to the inherent complexity of comparing insurance arrangements and risks in moving members to less favourable insurance terms, by definition where different insurance arrangements or cover apply between accounts for the member involved, consolidation should not occur.

We have set out below some more specific comments on the exposure draft.

MySuper confusion

The exposure draft appears to be based on the premise that a MySuper product is an account in its own right. This appears to conflict with other information promulgated by Treasury that a MySuper product is merely an investment option.

Hopefully the third tranche of MySuper legislation will incorporate rules covering members who have a MySuper investment option as well as a Choice investment option which are held in the one member account.

Example 1:
Member has two accounts:

- An active MySuper product to which his employer contributes
- An inactive account relating to previous employment which is totally invested in Australian shares (ie a different investment option to that applicable to the MySuper product)

The exposure draft is unclear as to whether the intention is:

- That the inactive account must be transferred to the MySuper product (resulting in a change of investment strategy); OR
- That the inactive account must be transferred to the same account as the MySuper product where the merged account will consist of two investment options (the MySuper investment option and the Australian shares option) OR
- Consolidation does not apply as the “rights and benefits” are different as different investment option selection is in place

Both the exposure draft and the EM need to be very clear on this issue. In any event, we assume that the intention in this example would be that future contributions would be credited to the MySuper product (unless the member selects another option).

Inadequate implementation

It would appear that the exposure draft will only mandate consolidation where multiple accounts have the same “rights and benefits”.

On this basis, it would appear that the following accounts could not be merged on a mandatory basis. These examples need to be considered and settled for the sake of clarity of what is intended and certainty of fund administration.

Example 2:

Member has two accounts in the fund's balanced option. Neither account has insurance. Account 1 has a balance of \$22,000 and account 2 has a balance of \$400. As the member's current benefits are technically different, the accounts cannot be merged under the proposed mandatory provisions. This appears to be totally illogical.

Example 3:

Member has two accounts, one invested in the fund's balance investment option and the other in an Australian shares option. The investment options have different rights and therefore cannot be merged under the proposed mandatory provisions. (If this is not the intention, then the legislation needs to clarify whether the intention is that, following the consolidation, the member will have one account with two investment options or one account with the same investment option.)

Example 4:

Member has two accounts in the fund's balanced option. Account 1 includes an insured benefit payable on death. Account 2 does not have any rights to insurance. As the insurance rights are different, the accounts cannot be merged under the proposed mandatory provisions. (If this is not the intention, then the legislation needs to clarify that, following the consolidation, the member will have one account invested in the balanced option with the member's insurance maintained. Changes would also be necessary to the requirements set out in the exposure draft in relation to which account is to be the ongoing account. For example, if Account 2 was the account to which the last contribution was paid, then the member may lose their insurance rights if it is not possible to provide insurance under Account 2.)

Example 5:

Member has two accounts in the fund's balanced option. Neither account has associated insurance. Account 1 has a management fee of 0.75% whereas Account 2 has a management fee of 1%. As the rights (fee levels) in each account are different, the accounts cannot be merged under the proposed mandatory provisions. (If this is not the intention, then the legislation needs to be clarified. We note that the proposed legislative requirements regarding which is to be the continuing account will also need to be reconsidered as it is feasible that, in this example, Account 2 would need to become the ongoing account resulting in the member paying higher fees.)

Example 6:

Member has two accounts in the fund's balanced option. Account 1 includes two units of insurance payable on death. The sum insured for each unit is determined based on an age related formula. Account 2 includes a fixed amount of insurance (\$10,000). The rules of the fund do not allow fixed amounts of insurance under Account 1 and do not allow for unitised insurance under Account 2. As the insurance rights are different, the accounts cannot be merged under the proposed mandatory provisions. (This would appear to be a case where the mandatory consolidation should not apply.)

Example 7:

Member has two accounts in the fund's balanced option. Both accounts include insurance on a similar unitised basis. However, the premium rates for each unit of cover differ between accounts. As the rights and benefits (in this case, premium rates) differ between accounts, then the accounts cannot be merged under the proposed mandatory provisions. (This would appear to be a case where the mandatory consolidation should not apply.)

We could come up with many other examples where the exposure draft wording would appear to be inadequate.

We note that the compulsory consolidation is only required if the member's rights and benefits in the two accounts are the same.

It is of course highly unlikely that the member's rights and benefits will be the same. The use of the terms rights and benefits needs to be reassessed.

Lack of clarity

- Commencement date

The commencement date information included on page 1 of the exposure draft is confusing and refers to a non-existent Schedule of the MySuper Core Provisions Act.

- Responsibility of trustee

Whilst the trustee needs to prepare and publish a policy in relation to automatic consolidation, it is unclear as to the scope and protection the trustee has in determining whether a member's accounts have the same rights and benefits

Provided the Trustee complies with its published rules for consolidation and notifies members for whom accounts have been consolidated (unless member has become uncontactable) there should be a statutory defence for the trustee to any claim of loss by the member or member's beneficiaries.

- Timing

The timing for the new trustee duty to prepare and publishing a policy and for the first automatic consolidation should be changed to be within a 12 month period starting from 1 July 2013..

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- Definition of inactive superannuation interest

We consider that this definition is confusing as it is restricted to interests of under \$1,000. There are many superannuation interests of over \$1,000 which have not received a contribution etc for over two years and would generally be considered to be inactive. We suggest that the \$1,000 reference in the definition of inactive superannuation interest be removed and that the automatic consolidation provisions then be applied to inactive superannuation interests which have a withdrawal benefit of less than \$1,000.

Insufficient protection for members

It would appear that mandatory consolidation is required irrespective of the member's wishes. We note that it appears that trustees must publish details of their automatic consolidation process. However, if a member advises the trustee that he or she does not want their accounts consolidated, there appears to be no mechanism under which the trustee can agree to the member's wishes. Whilst such cases are expected to be rare, the legislation should cater for them.

Please contact John Ward on 03 9623 5552 if you have any queries in relation to this submission.

Yours sincerely,



John Ward
Principal