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6 November 2020

Commonwealth Treasury
Langton Street
PARKES ACT 2600

By email: miscamendments@treasury.gov.au

Dear Sirs

**MISCELLANEOUS AMENDMENTS TO TREASURY PORTFOLIO LAWS 2020
TREASURY LAWS AMENDMENT (MISCELLANEOUS AND TECHNICAL
AMENDMENTS) REGULATIONS 2020**

ACCOUNTING FOR SELF-MANAGED SUPERANNUATION FUNDS

I refer to Item 67 of the exposure draft of proposed amendments to the *Superannuation Industry (Supervision) Regulations 1994* which reads as follows -

“For the purposes of subsection 35B(2) of the Act, the accounts and statements:

- (a) covered by subsection 35B(1) of the Act; and
- (b) in respect of an entity and a year of income of the entity;
must be prepared at least 45 days before the day by which section 35D of the Act requires a return to be lodged for the entity for that year.”

thus prescribing a time by which annual accounts and statements must be prepared, in respect of a superannuation entity that is a self-managed superannuation fund, in accordance with section 35B of the *Superannuation Industry (Supervision) Act 1993*. No time is currently prescribed by the *Superannuation Industry (Supervision) Regulations 1994*.

The new regulation requires those accounts and statements to be prepared at least 45 days before the day by which section 35D of that Act requires a return to be lodged for the entity. This is the same day by which an approved SMSF auditor must be appointed under subsection 35C(1) of that Act.

We observe that this 45-day period could mean in some instances the financial statements would need to be completed by mid-September, less than three months after 30 June.

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We observe that many listed companies and trusts have not sent out complete statements of shareholder or beneficiary distributions or entitlements to income by the end of September or even later. We also note the offence is one of those obnoxious and repugnant strict liability offences. Where trustees breach the requirements in section 35B of the Act, a penalty of \$2,220 each for individual trustees may apply.

You might wish to consider that, in this country, by the end of October, people are looking forward towards Christmas, accountants and business people have backlogs to clear before then and the country does not get back to work till the end of January, something which was finally noticed by those who amended the Business Activity Statement filing date to end February, instead of end January.

You might also wish to consider that the cost of keeping audited accounts for a self-managed superannuation fund is significant and may be more than any tax liability. Many people would never even bother to keep double entry or audited accounts of their own volition – they know where they are from their chequebooks and their broker statements

Many Australian investors would welcome simpler and less paperwork-laden investment vehicles so as to enjoy a quiet life free of bureaucratic vexations in enjoying their own moneys and the fruits of their labours. Accordingly, the higher the costs, time burdens, and risks of personal liability for offences, of maintaining a self-managed superannuation fund in this country, the more you encourage people to look elsewhere, including towards overseas investment alternatives, to place their money.

If that is your policy objective, please persist – otherwise reconsider.

Yours faithfully

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

Terence Dwyer