

14/06/2024

Attorney-General's Department
3-5 National Circuit
Barton ACT 2600

Via email: economiccrime@ag.gov.au

Dear Secretary,

Re: Reforming Australia's anti-money laundering and counter-terrorism financing regime

AustralianSuper welcomes the opportunity to provide feedback on the Attorney-General's Department's consultation on reforming Australia's anti-money and counter-terrorism financing regime.

AustralianSuper supports the development and implementation of a fit for purpose anti-money laundering and counter-terrorism financing (AML/CTF) regime that responds to the evolving threat environment and meets international standards.

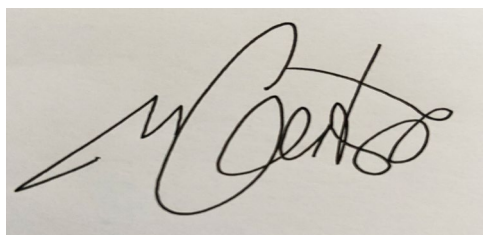
We welcome the move to a more principles-based approach for 'tipping off' offences which better reflects the complexity of a modern financial institution and the original intent behind the creation of the offence. The consideration of the 'business group' is a step in the correct direction which could be enhanced through an extension to cover, or greater guidance on how to consider relevant third parties. Specific guidance on how to conduct key business activities specific to the superannuation industry, such as a successor fund transfer (SFT), would also be welcome.

Given the scope of the proposed changes, consideration should be given to providing organisations with an adequate transition period to consider, uplift or embed any required changes to their AML/CTF compliance program.

Detailed comments are in the Attachment.

Should you have any questions, please contact me via email at ncoates@australiansuper.com.

Yours sincerely,



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Attachment 1: Overall Comments

Section 39 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

The retention of Section 39 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and the exemptions for superannuation funds is key to ensuring the continuity of established business processes. The removal or alteration of the exemptions contained in Section 39 could result in the disruption of certain services.

Tipping off

The Consultation Paper proposes reforms to modernise the tipping off offence to better support industry to comply with its AML/CTF obligations, while balancing the competing interests that the tipping-off offence was designed to protect. We would be supportive of reforms to ensure that entities can manage shared risks in an effective manner. For example, in the superannuation sector, the Australian Prudential Regulation Authority (APRA) continues to encourage funds to merge in certain circumstances. These mergers are intended to secure better retirement outcomes for members through placing them in a better performing fund. It is essential to provide an efficient, low risk merger/superannuation fund transfer (SFT) process that appropriately addresses money laundering and terrorism risks. The current, case-by-case, exemption process to share information about high-risk members is resource intensive for all participants.

To ensure that we can continue to deliver the best outcomes for our members we request that the Department develops tailored guidance for superannuation fund mergers which specifies the level of information that can be shared without breaching the tipping off provisions.

Know Your Customer (KYC) obligations

Currently, superannuation funds are subject to the Know Your Customer (KYC) obligations when conducting a designated service, which may be well after the initial establishment of a member's account. The practical reason for this is to accommodate the establishment of member accounts by employers and to allow for contributions to be accepted and credited to members accounts in a prompt fashion, rather than being held as unallocated pending the completion of a verification process.

Consideration should be given to extending the KYC requirements that apply to the sector to circumstances where members join a superannuation fund by establishing an account directly with the fund (this is distinct from an account being established by an employer on an employee's behalf, a circumstance in which the same level of risk does not arise). Implemented as a sector-wide mechanism, this would reduce the risk of the use of staging accounts. This would also reflect the increasing risks surrounding identity theft and the use of superannuation accounts to create additional false data points in relation to non-superannuation fraud.