



25 June 2015

Executive Director  
Office of Best Practice Regulation  
Department of the Prime Minister and Cabinet  
One National Circuit  
BARTON ACT 2600

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Dear Mr McNamara

## **REGULATION IMPACT STATEMENT FOR FINAL ASSESSMENT**

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared by the Department of the Treasury for the implementation of changes to the unclaimed moneys provisions as they apply to bank accounts and life insurance amounts (the provisions).

I believe the RIS meets best practice requirements and is consistent with the ten principles for Australian Government policy makers. It has incorporated recommendations included in your letter of 12 November 2014, 20 February 2015, and 21 May 2015 (ref: 17664) on earlier certified versions of this RIS.

Treasury have consulted widely with the banking and life insurance industries on the policy proposals in order to assess the problem, objectives, options, impact analysis, and the best approach to future consultation on our preferred options.

### **Unclaimed Moneys Provisions**

#### *What is the problem?*

Under the unclaimed moneys provisions in the *Banking Act 1959* (the Banking Act) and the *Life Insurance Act 1995* (the Life Insurance Act) the funds in bank accounts and life insurance accounts are transferred to the Australian Securities and Investments Commission (ASIC) after three years of inactivity. Previously the transfer to ASIC of unclaimed moneys had occurred after seven years of inactivity.

As a result of the change in 2012, an increased number of active accounts are now transferred to ASIC each year. While these accounts may not have been accessed by the account holder in at least three years, the account holder remains aware of the account and in many cases continues to pay tax on any interest accrued on the funds in that account. It is estimated that these active accounts are a significant proportion of accounts transferred to ASIC each year. As a result, transferring funds from account holders' accounts after three years of inactivity imposes significant regulatory costs on industry participants that must transfer the accounts to ASIC and then reclaim them from the Government. It also imposes costs on individuals that can be left financially distressed as they wait for their funds to be returned.

In addition, under the existing provisions in the Banking Act and Life Insurance Act, account holders' personal details are provided to ASIC and published publicly online on the MoneySmart website. These details can mean account holders are subject to unsolicited contact by businesses seeking to reunite them with their unclaimed funds for a fee despite the Government and industry offering this service without charge.

*Why is government action needed?*

The unclaimed moneys provisions are set out in the *Banking Act 1959*, the *Life Insurance Act 1995*, and the *Banking Regulations 1966*. Consequent changes to these provisions to reduce their regulatory burden will require legislative and regulatory amendments. It is important that regulations be maintained to ensure that account holders do not see their savings eroded by bank fees and charges or inflation, sometimes through no fault of their own (for example, in the case of accounts held by a deceased estate).

*What policy option is being implemented?*

In response to the problem outlined, the Government has decided to: extend the required period of inactivity before an account is deemed to be unclaimed to seven years; exempt accounts held in a foreign currency and accounts held by or on behalf of individuals under the age of 18; remove a regulatory discrepancy between the treatment of 'identified' and 'reactivated' accounts; cease the publication of the Unclaimed Moneys Gazette; and introduce secrecy provisions to ensure that the entities' personal details provided to ASIC cannot be obtained via Freedom of Information requests.

Despite support from some stakeholders, the Government did not elect to adopt a required period of inactivity of five years. This was because it was believed that changing the period of inactivity to five years would result in higher adjustment costs for consumers and industry as their systems would not align with either what is currently in place, or what was in place prior to 2013. In addition, it is considered that a five year period of inactivity would not address the problem of effectively active accounts being transferred to ASIC as comprehensively as a seven year period.

*What is the likely net benefit of this option?*

Using the regulatory burden measurement framework it has been estimated that the considered package of changes with a seven year required period of inactivity would generate regulatory savings of \$36 million per annum. This costing has previously been verified by OBPR.

It is anticipated that these changes will better protect account holders' personal details and reduce the number of people that become financially distressed as a result of the provisions.

Appropriate consultation, implementation, and evaluation plans have been set out.

I appreciate the assistance of your staff in developing this final assessment RIS.

I submit the certified RIS to the Office of Best Practice Regulation for final assessment, consistent with best practice.

Yours sincerely



Michael Willcock  
A/g Deputy Secretary  
Markets Group