Regulation impact statement — Changes to the unclaimed monies provisions

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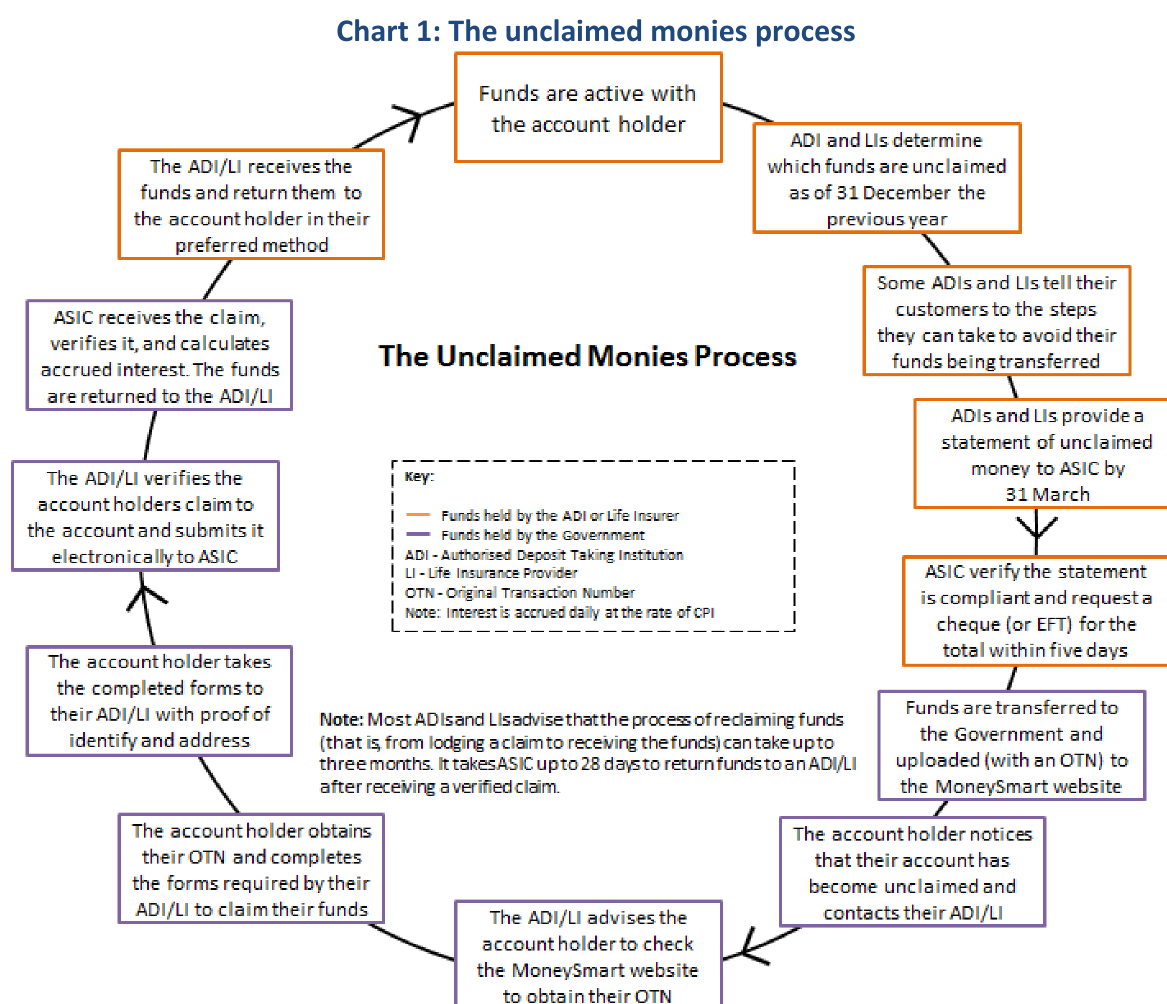
1. Issue identification

Under the unclaimed money provisions in the *Banking Act 1959* (the Banking Act) and the *Life Insurance Act 1995* (the Life Insurance Act) all Authorised Deposit-taking Institutions (ADIs) and life insurance providers are required to transfer 'inactive' accounts (that have not had a transaction other than interest or fees in the last three years) to the Australian Securities and Investments Commission (ASIC). The provisions are aimed at protecting the value of an account from being eroded by bank fees and charges over time while ensuring that account holders can be effectively and efficiently reunited with their lost accounts. There are 162 ADIs and 28 life insurance providers registered in Australia. They must all comply with the provisions.

Some accounts, such as farm management deposits, are exempt from the scheme; while others, such as escrow accounts, receive special treatment in the *Banking Regulations 1966*.

Chart 1 depicts the process for ADIs and life insurance providers to transfer funds from accounts deemed unclaimed to ASIC and for account holders to reclaim their funds from the government.

Chart 1: The unclaimed monies process



In 2012, the government announced that it would reduce the period of time required for bank accounts to be recognised as 'unclaimed' from seven to three years. This reduction in the required time period has resulted in more accounts being classified as 'unclaimed' despite account holders considering them to be active. In many cases, for example, the account holder continues to declare and pay tax on any interest accrued on their savings but may not access the funds held in the account for an extended period of time as they wish for them to remain 'at-call' if they need them. These accounts are deemed to be 'effectively active'. This is the primary problem with the unclaimed monies provisions and it has increased the burden of the provisions on businesses that must transfer the accounts (and process claims to have them returned), and on individuals that must complete paperwork and wait at least four weeks for their funds to be returned. The transfer of effectively active accounts to ASIC can also sometimes place account holders in conditions of financial stress. There is no data available on whether certain types of account holders are more likely to be affected by the provisions than any other; however, correspondence from affected individuals to the government suggests that they are distributed reasonably evenly throughout the population.

In addition to the large regulatory costs that the transfer of effectively active accounts imposes, there are community concerns (highlighted by National Seniors Australia's submission on the government's May 2014 discussion paper) that the amount of personal information published online by ASIC on their 'MoneySmart' website could facilitate identity fraud and leave account holders vulnerable to businesses offering to reunite them with their funds for a fee. ASIC does not charge a fee for this service.

Under the unclaimed monies provisions in the Banking Act and Life Insurance Act account holder's personal details[1] have always been made publicly available (either online or in the Unclaimed Money Gazette). However, these issues have become more pronounced since 2013 as a result of new technologies that can better harvest these details, as well as the increase in the number of individuals affected by the provisions since the reduction in the required period of inactivity.

These issues, as well as other more minor issues, are discussed in more detail below.

1.1. The required period of inactivity

The evidence suggests that the current provisions may not correctly balance the objectives of protecting the value of individual's funds from being eroded by fees and charges, while effectively and efficiently reuniting account holders with their money.

Account holders and industry stakeholders have advised the Government that a number of accounts after three years of inactivity are effectively active. The Government has received a substantial amount of correspondence relating to unclaimed monies specifically making this claim. ADIs have also received a large volume of complaints following the government's changes to the provisions that came into effect in 2013. According to the Australian Bankers' Association (ABA), complaints about the provisions increased by 300 per cent following the introduction of the three year required period of inactivity. This indicates that a large number of account holders very quickly noticed that their accounts had been deemed 'unclaimed' — suggesting that they were active. This would reflect the situation where an account holder has maintained an 'at-call' savings account that they have periodically checked on, but have not undertaken a transaction on. In some cases, this had a quite large and negative impact on account holders' wellbeing. For example, the government has received correspondence from a number of individuals that suffered as a result of losing access to funds they

1 Where available ADIs and life insurance providers provide ASIC with the account holder's name, address that the account was established at, the account provider, and the branch where the account was established.

had set aside for times of financial hardship that were no longer available when required. It is primarily for these reasons that the Final Report of the Financial System Inquiry recommended that the required period of inactivity under the unclaimed monies provisions should be extended.

Transferring accounts to ASIC that are effectively active imposes unnecessary costs on businesses and individuals. ADIs and life insurance providers must assess which accounts are unclaimed by 31 December each year, and transfer them to ASIC by 31 March the following year. While the majority of accounts are assessed using automatic processes, we have been advised by industry that the list of accounts must also be manually checked to ensure that exempted accounts, or accounts with special treatment, are appropriately excluded. Prior to them being assessed the majority of banks and life insurers also attempt to alert their customers to their unclaimed accounts, however there is no law mandating this. In addition, as unclaimed accounts are reclaimed there is an additional work created for industry throughout the rest of the year. Although account holders must complete the relevant paperwork, industry participants are responsible for reclaiming accounts on their behalf.

The ABA has estimated (in its submission to the Treasury discussion paper 'Options for Improving the Unclaimed Bank Account and Life Insurance Money Provisions') that a return to a required period of inactivity of seven years (the period that applied in 2011-12) would reduce the number of accounts transferred by approximately half. While it is not possible to precisely calculate how many effectively active accounts have been transferred under the provisions since 2013, it can be estimated. In 2013-14, $146 million in unclaimed accounts was transferred to ASIC (this was solely from accounts that had been inactive for three years). This is more than double the $70 million transferred to ASIC in 2011-12 that was collected solely from accounts that had been inactive for seven years.[2] Consequently, even assuming a slight increase in the value of each account transferred under a three year required period of inactivity, close to twice as many account-holders have been affected by these provisions as were previously. In 2013-14, 39,964 accounts were transferred to ASIC cumulatively from ADIs and life insurance providers (31,923 from ADIs and 8,041 from insurers). This implies that these changes have affected an additional 19,982 account holders each year, however this should be caveated by noting that some of these additional affected accounts may have been genuinely unclaimed.

While some of these issues with the required period of inactivity may lessen over time (due to the changes in notification requirements introduced in 2013 and broader consumer awareness of the provisions), it is still likely that many more account holders will be affected under the current three year required period of inactivity than was previously the case.

1.2. Exempt accounts and accounts receiving special treatment

The government made a number of regulations in the *Banking Regulations 1966* to exempt certain types of accounts and to provide special treatment to others (see Table 1). Despite the significant number of existing exemptions and special rules, some stakeholders (such as the ABA, the Customer Owned Banking Association (COBA), HSBC, and Adelaide and Bendigo Bank) have identified other accounts that should be exempted from the provisions, such as Foreign Currency Accounts (FCAs) and children's accounts.

FCAs are bank accounts held in a denomination other than Australian Dollars (AUD). When they are declared unclaimed they are converted to AUD by the relevant ADI before being transferred to ASIC. When they are claimed they are returned to the account holder in AUD.

2 The figures for 2012-13 should not be used as in this year funds were collected from all accounts that had been inactive for between three and seven years.

As a result, account holders are exposed to the risk that the exchange rate will change over the relevant period and ADIs must meet the cost of exchanging the currency of these accounts.

Children's accounts are accounts held by, or on behalf of, an individual under the age of 18. The current period of inactivity does not align with how consumers often use this type of account — for example, to set money aside for a child to access on their eighteenth birthday. A common complaint has been that accounts set aside for children in a high interest account have been transferred to the Government, reducing the amount of interest earned. This problem will not become apparent until 2016 as children's accounts must be inactive for seven years before they can be deemed unclaimed.

Table 1: Current treatment of specified accounts in the *Banking Regulations 1966*

Account type and definition	Current treatment
Linked accounts: A linked account is an account that is opened or maintained as a condition of holding another account at the same ADI, and are linked in accordance with the conditions of either or both accounts.	Linked accounts cannot be transferred to ASIC until no transactions other than interest or fees have been undertaken on any of the linked accounts for at least three years.
Sub accounts: A sub account is an account that is operated or maintained as part of another account (the parent account). Note: a single parent account can have multiple sub accounts.	A sub account cannot be transferred to ASIC until no transactions other than interest or fees have been undertaken on any sub account, or the parent account, for at least three years.
Frozen accounts: A frozen account is generally an account where deposits and withdrawals have not been allowed by law or by an order of a court. Under the regulations, a 'frozen account' is defined as an account that was frozen, but is no longer frozen (that is, the order or law no longer prohibits deposits or withdrawals from the account).	A 'frozen account' (for the purposes of the regulations) cannot be transferred to ASIC until no transactions other than interest or fees have been undertaken on the account for at least three years since the law or court order limiting access to the account has ceased to apply.
Security or set-off accounts: A security or set off account is an account held as a security, or set-off or account combination purposes, for a loan or other obligation. **Escrow accounts:** An escrow account is an account held as escrow for a contract. In addition for all three account types to satisfy the requirements of the regulations: • The account holder's ability to transact on the account must be limited by the ADI or the terms of the account's establishment; and • they must notify their ADI of either the purpose of the account and the period covered by the conditions of the loan, obligation, or contract; or simply the purpose of the account.	Security, set-off, and escrow accounts currently have different treatments depending on whether the account holder notified their ADI of the purpose of the account and the period covered by the conditions of the loan, obligation, or contract, or simply its purpose. If the account holder informs the ADI of the account's purpose and the relevant period, the account cannot be transferred to ASIC until the longer of seven years of inactivity, or three years of inactivity after the relevant loan, obligation, or contract has been discharged. If the account holder only informs the ADI of the account's purpose, but not the period, the account is transferred to ASIC after seven years of inactivity.

Account type and definition	Current treatment
<u>Controlled accounts:</u> A controlled account is an account opened and held as a requirement of a law of the Commonwealth, a State or a Territory, or a contract where the ability of the account holder to make deposits or withdrawals from the account is restricted by law or by contract. In addition, to satisfy the requirements of the regulations, the account holder must notify their ADI of either the purpose of the account and the period of the requirement, or simply the purpose of the account. An example would be a lawyers' trust account.	Controlled accounts currently have different treatments depending on whether the account holder notified their ADI of the purpose of the account and the relevant period, or simply its purpose. If the account holder informs the ADI of the account's purpose and the relevant period, the account cannot be transferred to ASIC until the longer of seven years of inactivity, or three years of inactivity after the relevant legal requirement has ceased to apply. If the account holder only informs the ADI of the account's purpose, but not the period, the account is transferred to ASIC after seven years of inactivity.

1.3. Privacy

Under the Banking Act, the details of account holders with unclaimed accounts have always been required to be published in the Unclaimed Money Gazette. This includes the full name of the account holder, the account holder's address at the time that the account was established, and the value of the account. Since 2002, these personal details have also been publicly searchable online via ASIC's 'MoneySmart' website. ASIC also responds proactively to Freedom of Information (FOI) requests by publishing an excel file containing all of this information on their website. This spreadsheet is updated regularly.

The problem with the current arrangements is that the level of information publicly available creates opportunities for groups to approach account holders and offer to reunite them with their account for a fee. There is no charge for account holders to reclaim their funds from ASIC. The Office of the Australian Information Commissioner (OAIC) and National Seniors Australia also noted in their submissions to Treasury's discussion paper that the level of information published could potentially be used to commit identity theft. While we currently have no evidence of this occurring, the risk has arguably increased as a result of the large increase in the number of account holders' details available on the MoneySmart website[3] and new technologies that make this data easier to harvest. These concerns were also raised by National Seniors Australia in their submission on Treasury's discussion paper on the unclaimed monies provisions.

1.4. Administrative arrangements

There is currently an administrative inconsistency that increases the chance of funds in effectively active accounts being deemed unclaimed and transferred to ASIC. Since May 2013 (as a result of legislative changes) ADIs and life insurance providers have not had to transfer reactivated accounts, that is accounts that have had a transaction undertaken on them after the assessment date (31 December each year) but prior to the transfer date (up to 31 March each year). This does not occur for accounts where the account holder notifies their ADI that they would like their account to remain active (such as by checking a balance) between these two dates (these are 'identified accounts').

3 This is due to the changes to the required period of inactivity in 2012-13.

2. Why is Government action required?

Government action is required as the provisions are set by legislation and regulations and could potentially achieve their objectives with a lower regulatory burden on the community.

This is particularly the case given the overarching policy objective of the unclaimed monies provisions, which is to ensure that account holders' unclaimed funds are not eroded by fees, charges, or inflation. Consequently, while a large number of the issues associated with the current provisions could be remedied through the abolition of the unclaimed monies provisions this would not guarantee account holders any protection in the event that, for example, an account is not transferred from a deceased estate for a number of years and is worth substantially less than was intended within that individual's will.

As a result, Government action is required to ensure that the law contains some protection for consumers in the event that they have lost funds through no fault of their own but also works to ensure that it is only those individuals that are captured by the provisions in order to minimise their burden on the broader community.

3. Policy options under consideration

The Government is currently considering a number of 'packages' of reform options to the unclaimed monies provisions. See Chart 2 for an overview of these options.

Chart 2: Overview of policy options under consideration

Option 1	Option 2	Option 3	Option 4
Maintain a 3 year required period of inactivity	Extend the required period of inactivity to 7 years	Do not extend the required period of inactivity	Abolish the unclaimed moneys provisions
No changes to account exemptions	Exempt FCAs and children's accounts	Exempt FCAs and children's accounts	
Continue to publish gazette and respond to FOI	No longer publish the gazette (online or in hard copy)	No longer publish the gazette (online or in hard copy)	
No change to administrative arrangements	Introduce secrecy provisions to protect individual's data	Introduce secrecy provisions to protect individual's data	
	Do not require 'identified' accounts to be transferred to ASIC	Do not require 'identified' accounts to be transferred to ASIC	

Note: Option 1 is the status quo.

3.1. Option 1: Maintain the status quo

The Government has the option of not amending the current provisions. This would not address the problems identified, however it would not require ADIs and insurance companies to make any changes to their systems, and customers would not have to learn about a new system.

3.2. Option 2: Extend the required period of inactivity to seven years, exempt FCAs and children's accounts, reduce the amount of private information publicly available and ensure that 'identified' accounts do not have to be transferred to ASIC

The required period of inactivity

Option 2 would extend the required period of inactivity before an account is transferred to ASIC to seven years. Section 20 of the *Banking Regulations Act 1966* would have to be updated to ensure that the treatment of linked accounts, sub accounts, frozen accounts, set-off or escrow accounts, and controlled accounts reflected this.

There is evidence that extending the required period of inactivity to seven years would approximately halve the number of accounts currently transferred to ASIC each year. This estimate is based on actual transfers to ASIC both before and after the 2012 amendments. Table 2 includes the proposed treatment of these accounts under the Banking Act.

Table 2: Proposed treatment of specified accounts

Account type and definition	**Proposed treatment**
Linked accounts:	Linked accounts cannot be transferred to ASIC until no transactions other than interest or fees have been undertaken on any of the linked accounts for at least seven years.
Sub accounts:	A sub account cannot be transferred to ASIC until no transactions other than interest or fees have been undertaken on any sub account, or the parent account, for at least seven years.
Frozen accounts:	A 'frozen account' (for the purposes of the regulations) cannot be transferred to ASIC until no transactions other than interest or fees have been undertaken on the account for at least seven years since the law or court order limiting access to the account has ceased to apply.
Security, set-off, or escrow accounts:	Security, set-off, and escrow accounts currently have different treatments depending on whether the account holder notified their ADI of the purpose of the account and the period covered by the conditions of the loan, obligation, or contract, or simply its purpose. If the account holder informs the ADI of the account's purpose and the relevant period the account cannot be transferred to ASIC until seven years of inactivity after the relevant loan, obligation, or contract has been discharged. If the account holder only informs the ADI of the account's purpose, but not the period, the account is transferred to ASIC after seven years of inactivity.

Account type and definition	Proposed treatment
Controlled accounts:	Controlled accounts currently have different treatments depending on whether the account holder notified their ADI of the purpose of the account and the relevant period, or simply its purpose. If the account holder informs the ADI of the account's purpose and the relevant period, the account cannot be transferred to ASIC until seven years of inactivity after the relevant legal requirement has ceased to apply. If the account holder only informs the ADI of the account's purpose, but not the period, the account is transferred to ASIC after seven years of inactivity.

Exempted accounts

Under this option the Government would amend the *Banking Act 1959* to exempt FCAs and children's accounts from the unclaimed monies provisions.

Privacy concerns

In order to address the concerns of the Office of the Australian Information Commissioner and National Seniors Australia regarding the amount of personal information made publicly available and to reduce the threat of identity fraud, under this option the Government would amend the Banking Act to remove the requirement to publish data in the Unclaimed Money Gazette entirely.

In order to limit the ability of businesses to access individual's private information the Government would also introduce secrecy provisions into the Banking Act and the Life Insurance Act.

The secrecy provisions would be drafted such that disclosure can occur, but only to the individual (or selected other individuals or entities — for example the relatives of the deceased) about which the information concerns.

Section 38 of the *Freedom of Information Act 1982* (FOI Act) provides that a document is exempt under the Act if it is covered by a secrecy provision in other legislation, and:

- The provision is listed in Schedule 3 of the FOI Act, or
- The provision (or some other provision) explicitly applies section 38 of the FOI Act to the documents concerned.
- The MoneySmart website, despite these changes, would continue to operate as it does currently.

Administrative arrangements

The Government would amend the Banking Act to ensure that 'identified' accounts are not transferred to ASIC under the unclaimed monies provisions. This would align the treatment of 'identified' accounts with 'reactivated' accounts.

3.3. Option 3: Maintain a required period of inactivity of three years, exempt FCAs and children's accounts, reduce the amount of private information publicly available and ensure that 'identified' accounts do not have to be transferred to ASIC

The required period of inactivity

Option 3 would maintain the required period of inactivity before an account is transferred to ASIC of three years.

Exempted accounts

Under this option the Government would amend the Banking Act to exempt FCAs and children's accounts from the unclaimed monies provisions.

Privacy concerns

As in Option 2, under Option 3 the Government would remove the requirement to publish data in the Unclaimed Money Gazette and introduce secrecy provisions to protect account holders' personal information.

Administrative arrangements

Under Option 3 the Government would ensure that 'identified' accounts do not have to be transferred to ASIC. This would align their treatment with 'reactivated' accounts.

3.4. Option 4: Abolish the unclaimed monies provisions

Under Option 4 the Government would abolish the unclaimed monies provisions as they relate to bank accounts and life insurance amounts. This would leave account holders wholly responsible for maintaining awareness of their banking and life insurance products.

4. Regulatory cost benefit analysis

Throughout each costing we have attempted to provide conservative estimates of the regulatory costs and savings associated with any changes to the unclaimed monies provisions.

In line with the OBPR's regulatory costing framework we have not included or considered opportunity costs. The assumptions used to derive these cost estimates are outlined in the Appendix.

4.1. Option 1: Maintain the status quo

As this would maintain the status quo, and therefore require no regulatory or legislative changes, there are no new regulatory costs or savings associated with this option. The problems identified in Section 1 would broadly persist, however this option would have the benefit of account holders and industry not requiring education on further changes to the provisions.

It is also likely that if the status quo was to be maintained that some of the problems identified in Section 1 may decrease over time. This is, firstly, as account holders may become more aware of the provisions or industry may become more effective at reaching out to them before their accounts are deemed unclaimed. This would result in fewer accounts being transferred, however this is impossible to quantify and merely speculative.

Secondly, fewer effectively active accounts may be transferred to ASIC in the future as a result of the changes to notification standards introduced in 2013. These changes ensured that account holders now only have to (for example) check their balance online, over the phone, or simply ask their account provider to maintain their account for it not to be deemed unclaimed. Over time this should result in fewer effectively active accounts being transferred to ASIC each year though will likely not eliminate the problem as cases will still remain where account holders have been unfamiliar with the provisions and unfamiliar with the steps that they can take to avoid being affected. It is not possible to quantify how many fewer accounts may be transferred to ASIC in future years as a result of these changes.

However, while problems related to the period of inactivity may decrease over time even while maintaining the status quo, issues related to the account types captured by the provisions, the availability of account holders' personal details, and the inconsistency in the treatment of 'identified' and 'reactivated' accounts would remain.

4.2. Option 2: Extend the required period of inactivity to seven years, exempt FCAs and children's accounts, reduce the amount of private information publicly available and ensure that 'identified' accounts do not have to be transferred to ASIC

A shift to a required period of inactivity of seven years could more adequately balance the trade-off between preserving the value of the account and efficiently reducing the burden that the provisions place on the community and industry.

The required period of inactivity

Any change to the required period of inactivity will affect the industry participants responsible for complying with the unclaimed monies provisions in two ways: there will be an upfront cost associated with adapting IT systems and manual processes (or some combination thereof) to comply with the new rules; and there will be ongoing savings generated due to institutions having to transfer fewer accounts to ASIC and having to process fewer claims by individual's seeking to reclaim their lost accounts. This reduction in the volume of accounts transferred will also benefit consumers by limiting the number of accounts transferred to ASIC that are not genuinely unclaimed. This will be particularly beneficial for account holders that may have been placed in a situation of financial hardship had their funds been transferred after three years despite it being effectively active.

These ongoing benefits to consumers will be offset at the margins due to the cost to consumers whose accounts are genuinely unclaimed after three years but continue to attract monthly fees for four more years until they are transferred to ASIC.

Finally, extending the required period of inactivity would have a substantial cost to the Government's budget as no funds would be transferred to ASIC for at least four years. This is because currently the longest period that an account could possibly be inactive is three years. Given the government's current fiscal position, this will be an important consideration in determining the preferred option.

Regulatory impact on industry

We have assumed that the cost for large ADIs in establishing new processes and/or updating new infrastructure will be, on average, $200,000. This acknowledges the variations in entity size that exist among this cohort, and accepts that for some ADIs the costs may approach the upper $500,000 threshold for implementation identified by the ABA (and for some very large institutions potentially the $1 million upper bound). The ABA has advised the Government that this approach is appropriate.

We have assumed that the cost to smaller ADIs and life insurers will be approximately half the average cost to larger ADIs. This is recognising that while these entities transfer less accounts per institution on average than ADIs, the number per institution is still quite significant.

Table 3: Estimated cost to industry in updating IT infrastructure and processes

Approximate regulatory cost (in year 1)	Amount per entity ($)	Number of entities	Total cost (in year 1) ($)
Implementation costs — large ADIs	200,000	92	18,400,000
Implementation costs — small ADIs	100,000	70	7,000,000
Implementation costs — insurance funds	100,000	28	2,800,000
Total		**190**	**28,200,000**

Extending the required period of inactivity will generate ongoing savings for industry in two ways. Firstly, entities would transfer fewer accounts to ASIC each year. While entities will continue to have to provide an unclaimed monies report to ASIC by 31 March each year, transferring fewer accounts will result in entities having to complete less manual checking of their reports. Secondly, transferring fewer accounts will result in businesses having to reclaim commensurately fewer accounts from ASIC each year. Many businesses submit paperwork to reclaim accounts from ASIC weekly or fortnightly throughout the year and while this may not change they are likely to have to process fewer claims each time.

Consequently, we have estimated that the saving for large ADIs in transferring fewer accounts each year will be approximately $340,000 per ADI — towards the upper end of the band provided by the ABA. This acknowledges the variations in entity size that exist among this cohort, and accepts that for some ADIs the savings may approach the upper threshold of $350,000, while for others it will be towards the middle of the band.

We have assumed that there will be no savings for small ADIs due to the number of ADIs that transfer zero accounts each year. The savings for life insurers are assumed to be half as large of those for large ADIs, accepting that they transfer approximately half as many accounts per institution on average. This is based on ASIC's data on the number of accounts affected each year. See Table 6 for these estimates.

As a result of this change, ADIs may also benefit from collecting account keeping fees from accounts that are effectively 'unclaimed' for up to seven years, whereas currently they would be transferred to ASIC after three. This would therefore represent up to two years of income on each such account for the relevant ADI — this represents a real cost to consumers. However, as this would also represent up to four years of fees on each such account for the affected consumer it is argued that the net regulatory burden of this change is zero. Accounts would not be transferred for an additional four years; however, it would generate a saving for Government from not having to pay interest on the funds for an additional two years.

Finally, if the required period of inactivity is extended, industry will also benefit from a likely decrease in complaints associated with the unclaimed monies provisions. This is based on the approximately three-fold increase in complaints to industry in 2013 after the reduction of the required period of inactivity in 2012. However, as we do not believe that the number of people employed by affected businesses to deal with customer complaints would be reduced as a result of this change, we have not estimated a cost.

Table 4: Approximate ongoing regulatory savings for industry associated with extending the required period of inactivity to seven years.

	Amount per entity	Number of entities	Total savings
Transferring fewer accounts — large ADIs	$340,000	92	$31,280,000
Transferring fewer accounts — small ADIs	$0	70	$0.00
Transferring fewer accounts — insurance funds	$170,000	28	$4,760,000
Total		**190**	**$36,040,000**

Regulatory impact on account holders

We have assumed that after a period of seven years, funds from 50 per cent fewer accounts will be transferred each year relative to the existing three year period of inactivity. This represents 19,982 accounts relative to 2013-14. This is based on the fact that approximately half as much revenue was collected under a three year required period of inactivity as was collected under a seven year period of inactivity.

The most significant benefit of this change could be that fewer individuals will be placed in a position of financial distress as a result of having funds withdrawn from effectively active accounts and transferred to the Government. However, we have not quantified this benefit as it sits outside OBPR's regulatory costing framework.

In addition to this, a large number of individuals will no longer have to identify their missing account, complete the relevant paperwork, and wait between four and six weeks[4] for their funds to be returned. In order to reclaim their funds, account holders must complete, depending on their ADI or life insurance provider, a two page form and verify their claim to the account. This form is on average two pages, and requires account holders to provide their name, current address, former address (if the account was created at a former address), and telephone number. They must also nominate how they would like their funds to be returned to them and verify their address (or addresses) and identity. We have estimated that satisfying these requirements will take half an hour on average. In addition to the cost of completing paperwork, however, there are additional costs for consumers in determining why their account has been closed, learning about the provisions, obtaining an Original Transaction Number from ASIC, and in contacting their ADIs or life insurance providers. We have estimated that this will take an additional two hours — noting that in many cases it could be far higher. As a result, extending the required period of inactivity to seven years is estimated to save account holders a regulatory cost of $85.50 each, or $1,708,461 per year in relation to 19,982 account holders. See Table 5.

4 While it takes ASIC on average 28 days to return funds to an individual there is also a delay between account holders completing the paperwork to reclaim their account and ASIC receiving this from the relevant ADI/life insurance provider.

Table 5: Approximate ongoing regulatory savings for account holders associated with extending the required period of inactivity to seven years.

	Amount per account holder ($)	Number of affected account holders	Total regulatory saving for account holders ($)
Reclaiming fewer accounts — account holders	85.50	19,982	1,708,461

While we have quantified the benefits of no longer having to complete the relevant paperwork, we have not quantified the benefit of no longer having to wait to have money returned. This is because this benefit is likely in most cases to be due to their bank account paying interest at a higher rate than CPI, which is an economic rather than a regulatory saving. Despite not quantifying this saving, ensuring that account holders have ready access to their active funds is a primary objective of any change to the unclaimed monies provisions.

These benefits will be offset at the margins due to the cost to consumers whose accounts are genuinely unclaimed after three years but continue to attract monthly fees for four more years until they are transferred to ASIC. However, as noted above the net regulatory cost for this item is zero, as it is netted out by additional income to account providers.

Finally, under a seven year period of inactivity it is less likely that industry will have up to date contact details for each account holder to provide to ASIC than after three. This could make it slightly more difficult in some cases for individual's to locate their funds on the MoneySmart website, however we believe that this cost will be marginal and is impossible to quantify.

Exempted accounts

Regulatory impact on industry

Regulations to exempt FCAs and children's accounts from the unclaimed monies provisions will generate small regulatory savings for ADIs each year (life insurance providers do not provide either of these financial products). However, savings would be offset initially due to the costs of either updating IT infrastructure or manual processes.

We have assumed that only large ADIs will offer FCAs to their consumers. This is due to the relative complexity of the product and to ensure that our estimates of the regulatory savings generated by this option remain conservative. Excluding FCAs from the provisions will generate savings for two reasons: firstly, as ADIs would no longer need to transfer unclaimed FCAs to ASIC under the unclaimed monies provisions, and secondly, as they would therefore no longer need to convert FCAs into Australian dollars prior to their transfer to ASIC.

We have estimated that the regulatory saving generated by this change would equal five per cent of the lower bound of the savings estimates provided by the ABA (that is, approximately $5,000 per institution per annum). This is designed to capture both the saving associated with transferring fewer accounts ($4,000 per year), and the saving associated with no longer having to convert accounts into AUD prior to their transfer ($1,000 per year). It is designed to be a conservative estimate of any saving as there is no data available on the number of FCAs held in Australia.

Completely excluding children's accounts would generate additional small regulatory savings for all ADIs each year. However, these savings would not become apparent until at least 2016. This is because children's accounts are currently subject to a required period of inactivity of seven years under the unclaimed monies provisions before they can be transferred to ASIC.

In order to quantify this saving we have assumed that the average savings per annum for large ADIs related to excluding children's accounts will equal approximately 10 per cent of the lower bound estimate provided to Government by the ABA. This equates to approximately $10,000 per institution per year. ADIs are also likely to see a reduction in the volume of complaints that they receive as a result of these changes, creating small additional savings. It is designed to be a conservative estimate of any saving as there is no data available on the number of children's accounts held in Australia.

Completely excluding FCAs and children's accounts does have an associated implementation cost for industry. It is estimated that this will be small relative to the cost of changing the required period of inactivity. This is because the costs of updating IT infrastructure or business processes are assumed to be largely fixed. We are assuming a fixed capital cost of $10,000 for large ADIs and $5,000 for small ADIs (maintaining the ratio used to estimate the costs of changing the required period of inactivity). It is acknowledged that for some institutions it may well be higher, and lower for others (for example those that do not provide FCAs even within the 'large ADI' subset). Implementation of any new requirements will still impose a cost on small ADIs, despite assuming that they will transfer no accounts to ASIC each year, as their annual reports must still comply with legislative requirements.

Regulatory impact on account holders

There is no data available on the types of accounts transferred to ASIC. Therefore it is impossible to accurately estimate the regulatory savings for individuals associated with exempting children's accounts and FCAs from the unclaimed monies provisions.

The exemption of FCAs, however, will benefit individuals in two ways. Firstly, they will no longer have to complete the relevant paperwork to reclaim their accounts. Secondly, they will no longer be exposed to exchange risk on their funds — that is, the risk that the value of their funds will be eroded by appreciation in the value of the AUD relative to the currency that the account was kept in.[5] Finally, it is also anticipated that as FCAs are primarily held in order to finalise transactions with foreign counterparties there will be additional benefits to account holders who would have been unable to finalise a transaction if their FCA had been transferred to ASIC. This is an economic cost, rather than a direct cost of regulation.

We do not believe that excluding FCAs will impose additional costs on consumers. This is because the holders of FCAs tend to be sophisticated consumers and the accounts tend to be established for particular purposes. It is therefore arguable that they fall outside the policy intent of the unclaimed monies provisions as it is unlikely for these accounts to be genuinely unclaimed.

The exemption of children's accounts from the provisions will also potentially benefit individuals in two significant ways. As with FCA holders, they will no longer have to complete the relevant paperwork to reclaim their accounts. They will also no longer be exposed to the risk that the account will earn interest at a lower rate while unclaimed than if it had remained with the ADI. This is a common source of complaints for ADIs from holders of children's accounts.[6] More broadly, it will

5 This will not generate regulatory savings for account holders overall as movements in the AUD are anticipated to be as likely to benefit account holders as to not.

6 This will not generate regulatory savings for account holders overall as we have assumed that it is just as likely that an account will earn a higher interest rate while unclaimed than a lower one. This is based on the fact that many savings accounts offered by the four major banks are approximately 2.5 per cent. This is in line with forecast inflation.

also ensure that when a child's funds are to be drawn on (for example, for a significant birthday) account holders will know with certainty that the funds will be available.

In order to quantify these benefits we have assumed that 2.5 per cent of individual's currently affected by the provisions are affected because of holding either a FCA or a children's account. This would represent approximately 1000 individuals generating savings of $85,459 per year.

Privacy concerns

Regulatory impact on industry

Removing the requirement to publish the unclaimed monies gazette and introducing secrecy provisions to the Banking Act and Life Insurance Act to restrict access to the details of account holders will not impose additional regulatory burden on ADIs or life insurance providers. This is because the amount of information that they provide to ASIC will not change.

These changes, however, will have costs for those businesses that offer to reunite account holders with their accounts for a fee. While the information on the existing stock of unclaimed accounts will remain publicly available (even if they are removed from ASIC's website it is likely that copies will remain in circulation)in the future it will no longer be straight forward to compile a database of account holders' personal details. As a result, it is likely that the income of these firms will decline as they will not be able to easily obtain these details and contact these individuals. We have assumed that these entities would have already contacted those account holders currently identified in the unclaimed monies gazette.

It is not possible to calculate the quantum of this loss of revenue with any accuracy as these businesses tend to be privately held and only operate for a short period of time. There is no data available on their number or their revenue. It is anticipated that the size of this cost would be small relative to the administrative savings associated with extending the required period of inactivity.

Regulatory impact on account holders

Account holders would benefit from this change as it would minimise the risk of identity theft and make it much more difficult for firms to make unsolicited contact with them. Under these changes, firms looking to obtain the personal details of individuals with unclaimed accounts would be forced to search the MoneySmart website for one name at a time. The MoneySmart website would then provide details only for individual's matching that name (and will not display any results for a search that generates 500 or more results).[7] It would therefore be very labour intensive for the firms involved to obtain the full list of individual's with unclaimed accounts and depending on the percentage of account holders that accept their find-for-fee business offerings, this business model may no longer be viable. Account holders will therefore no longer pay for access to a service that is free, however for some individuals these changes could mean that they are no longer reunited with their funds at all (as they would not have been aware of the lost funds without contact being made).

We have not attempted to quantify these effects. This is because it is not a direct outcome of changing the unclaimed monies provisions, but a second order effect. As a result, it sits outside the quantification requirements of the Regulatory Burden Measurement Framework.

Despite these benefits, the introduction of secrecy provisions could make it harder for individual's to obtain details of their unclaimed funds through a Freedom of Information request. That is because following the introduction of secrecy provisions such requests would need to be accompanied by sufficient documentation to confirm their identity and claim to any unclaimed funds. We have not

7 This minimises the chance that a database mining tool could be used to compile a list of account holders.

quantified this cost, however, as while theoretically this could present a problem the government has never received a Freedom of Information request from an account holder with unclaimed money and there is no reason to infer that this would change.

Administrative arrangements

Regulatory impact on industry

Removing the requirement for industry participants to transfer 'identified' accounts to ASIC will generate small, ongoing, regulatory savings. These savings will be offset initially due to ADIs needing to invest in systems changes to ensure that these accounts are not included in the annual unclaimed monies report.

We have assumed that the cost of updating IT systems and processes will primarily be fixed. As a result, we have estimated the following costs to business — maintaining the ratios of costs between large ADIs, small ADIs and insurance companies that we have used throughout. These are $5,000 for large ADIs and $2,500 for small ADIs and life insurance providers. They are smaller than the costs estimated to exempt FCAs and children's accounts as this change will align the treatment of identified accounts with reactivated accounts — a change that has already been implemented and we have assumed will therefore be reasonably simple to extend to 'identified' accounts.

Savings will be generated for industry due to having to transfer less accounts to ASIC. For large ADIs we have estimated a regulatory saving equal to approximately 0.5 per cent of the lower saving bound provided by the ABA (that is, approximately $500). This is because we estimate that very few accounts will no longer have their funds transferred to ASIC as a result of this change. We have also estimated such a low number to ensure that the estimates put forward remain conservative.

Regulatory impact on account holders

Account holders will benefit from the exclusion of identified accounts from the unclaimed monies provisions. This is because satisfying the notification requirements explicitly indicates that the account is active, and should therefore not be deemed to be unclaimed.

While this change will generate a regulatory saving for account holders, it is not anticipated to affect many account holders per year — particularly as it would only apply to account holders that have already left their account inactive for seven years. We have assumed that this will result in the provisions affecting approximately 200 people less than they do currently (that is, 0.5 per cent less).

More broadly, this change will help to ensure that account holders maintain access to funds in their active accounts which will minimise the risk of individual's being placed in a position of financial hardship as a result of the unclaimed monies provisions.

Summary of costs and savings

Table 6 contains a summary of the estimated costs and savings for industry of adopting Option 2. Table 7 contains a summary of the estimated savings for account holders in adopting Option 2.

Table 6: Approximate regulatory costs and savings for industry participants under Option 2

Item	Affected businesses	No.	Cost (in year 1) ($)	Saving (ongoing) ($)
Extending the required period of inactivity	Life Insurance Providers	28	100,000	170,000
	Small ADIs	70	100,000	0
	Large ADIs	92	200,000	340,000
Exempting accounts	Small ADIs	70	5,000	0
	Large ADIs	92	10,000	15,000
Privacy	Small ADIs	70	0	0
	Large ADIs	92	0	0
Exempting identified accounts	Life Insurance Providers	28	2,500	250
	Small ADIs	70	2,500	0
	Large ADIs	92	5,000	500

Table 7: Approximate regulatory costs and savings for account holders under Option 2

Item	Individuals affected	Saving per individual (ongoing) ($)	Saving (total) ($)
Extending the required period of inactivity	19,982	85.50	1,708,461
Exempting FCAs and Children's Accounts	1000	85.50	85,500
Exempting Identified Accounts	200	85.50	17,100

Table 8 presents the overall effect of these changes as calculated using the Office of Best Practice Regulation's (OBPR's) regulatory burden measurement framework.

Table 8: Total regulatory impact of Option 2

Average annual regulatory costs (from business as usual)				
Change in costs ($ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	-$34.44 million	$0.00	-$1.40 million	-$35.87 million
Cost offset ($ million)	Business	Community organisations	Individuals	Total, by source
Agency	$ N/A	$ N/A	$ N/A	$ N/A
Are all new costs offset? ☐ Yes, costs are offset ☐ No, costs are not offset ☐ Deregulatory—no offsets required				
Total (Change in costs — Cost offset) ($ million) = -$35.87 million				

4.3. Option 3: Maintain a required period of inactivity of three years, exempt FCAs and children's accounts, reduce the amount of private information publicly available and ensure that 'identified' accounts do not have to be transferred to ASIC

The required period of inactivity

Under Option 3, the required period of inactivity would be maintained. Consequently, there are no new regulatory costs or savings to be considered. The problems with the current period of inactivity identified in Section 1 would broadly persist, however there would be the benefit that account holders and industry would not need to be educated about further changes to the provisions.

It is also likely that if the required three year period of inactivity was to be maintained that the identified problems may decrease over time. This is, firstly, as account holders may become more aware of the provisions or industry may become more effective at reaching out to them before their accounts are deemed unclaimed. This would result in fewer accounts being transferred, however this is impossible to quantify and merely speculative.

Secondly, fewer effectively active accounts may be transferred to ASIC in the future as a result of the changes to notification standards introduced in 2013. These changes ensured that account holders now only have to (for example) check their balance online, over the phone, or simply ask their account provider to maintain their account for it not to be deemed unclaimed. Over time this should result in fewer effectively active accounts being transferred to ASIC each year, though will likely not eliminate the problem as cases will still remain where account holders have been unfamiliar with the provisions and unfamiliar with the steps that they can take to avoid being effected. It is not possible to quantify how many fewer accounts may be transferred to ASIC in the future as a result of these changes.

Finally, maintaining a required period of inactivity of three years would drastically reduce the costs to government of improving the unclaimed monies provisions. As a consequence of the budget's current position, the fiscal impact of any change will be a key consideration in determining the preferred option.

Exempted accounts

The regulatory costs and benefits of exempting FCAs and children's accounts from the unclaimed monies provisions in Option 3 will be identical to those reported in Option 2.

Privacy concerns

The regulatory costs and benefits of ceasing to publish the Unclaimed Money Gazette and introducing secrecy provisions to protect individual's data from FOI requests from unrelated parties will be identical to those reported in Option 2.

Administrative arrangements

The regulatory costs and benefits of not requiring 'identified' accounts to be transferred to ASIC under the unclaimed monies provisions in Option 3 will be identical to those reported in Option 2.

Summary of costs and savings

Table 9 contains a summary of the estimated costs and savings for industry of adopting Option 3. Table 10 contains a summary of the estimated savings for account holders in adopting Option 3.

Table 9: Approximate regulatory costs and savings for industry participants

Item	Affected businesses	No.	Cost (in year 1) ($)	Saving (ongoing) ($)
Exempting Accounts	Small ADIs	70	5,000	0
	Large ADIs	92	10,000	15,000
Privacy	Small ADIs	70	0	0
	Large ADIs	92	0	0
Exempting Identified Accounts	Life Insurance Providers	28	2,500	250
	Small ADIs	70	2,500	0
	Large ADIs	92	5,000	500

Table 10: Approximate regulatory costs and savings for account holders

Item	Individuals affected	Saving per individual (ongoing) ($)	Saving (total) ($)
Exempting FCAs and Children's Accounts	1000	85.50	85,500
Privacy	0	0	0
Exempting Identified Accounts	200	85.50	17,100

Table 11 presents the overall effect of these changes as calculated using the OBPR's regulatory burden measurement framework.

Table 11: Total regulatory impact of Option 3

Average annual regulatory costs (from business as usual)				
Change in costs ($ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	-$1.24 million	$0.00	-$0.08 million	-$1.32 million
Cost offset ($ million)	Business	Community organisations	Individuals	Total, by source
Agency	$N/A	$N/A	$N/A	$N/A
Are all new costs offset? □ Yes, costs are offset □ No, costs are not offset □ Deregulatory—no offsets required				
Total (Change in costs — Cost offset) ($ million) = **-$1.32 million**				

4.4. Option 4: Abolish the unclaimed monies provisions

Abolishing the unclaimed monies provisions would resolve a number of the problems identified in Section 1 by ensuring that no account holder would lose access to their funds due to inactivity on an account. However, abolishing the provisions would also not achieve the objectives for the provisions (outlined in Section 2) which is to ensure that account holders' unclaimed funds are not eroded by fees, charges, or inflation. In the absence of unclaimed monies provisions there could be a direct transfer of wealth from account holders to their financial institution (in the case of fees and charges) through no fault of their own, particularly in relation to accounts tied to deceased estates where it may take a number of years to resolve ownership.

Abolishing the provisions would also have a substantial cost to the Government's budget, as funds would not be transferred to ASIC anymore. Given the government's current fiscal position, this will be an important consideration in determining the preferred option.

Despite these downsides, reducing the regulatory burden of Government policies by $1 billion each year is a key objective of the current government and lower regulatory costs will allow businesses to spend more funds growing their business and individuals to spend more time on work or leisure activities. There would be large regulatory savings associated with abolishing the provisions.

For example, industry will not be required to make any further investments in their systems in order to enact this change and will no longer have to track account activity and transfer funds to ASIC each year. Account holders would also no longer have to undertake the process of reclaiming their money from the government and there would no longer be any risk of account holders being placed in a position of financial distress as a consequence of the provisions. Lower regulatory costs will allow businesses to spend more funds growing their business and for individuals to spend more time on work or leisure activities.

As no accounts would be transferred under this option, and given the earlier assumption that a seven year period of inactivity would halve the number of accounts transferred each year (based on historical collections data), we have assumed that under abolishing the provisions would double the regulatory savings for industry outlined in Option 2. The savings for industry are laid out in Table 12.

Table 12: Approximate ongoing regulatory savings for industry associated with abolishing the provisions.

	Amount per entity	Number of entities	Total savings
Transferring fewer accounts — large ADIs	$680,000	92	$62,560,000
Transferring fewer accounts — small ADIs	$0	70	$0.00
Transferring fewer accounts — insurance funds	$340,000	28	$9,520,000
Total		190	$72,080,000

As in Option 2 and 3 the savings for account holders will be equal to $85.50 per account holder no longer affected by the provisions. Assuming that the number of accounts transferred in 2013-14 remains approximately constant, this translates to a regulatory saving of $3,416,922 per year. Table 13 outlines the approximate ongoing regulatory savings for account holders.

Table 13: Approximate ongoing regulatory savings for account holders associated with abolishing the provisions.

	Amount per account holder ($)	Number of affected account holders	Total regulatory saving for account holders ($)
Reclaiming fewer accounts — account holders	85.50	39,964	3,416,922

Table 14 presents the overall effect of these changes as calculated using the OBPR's regulatory burden measurement framework.

Table 14: Total regulatory impact of Option 4

Average annual regulatory costs (from business as usual)				
Change in costs ($ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	-$72.1 million	$0.00	-$3.4 million	-$75.5 million
Cost offset ($ million)	Business	Community organisations	Individuals	Total, by source
Agency	$N/A	$N/A	$N/A	$N/A
Are all new costs offset? □ Yes, costs are offset □ No, costs are not offset □ Deregulatory—no offsets required				
Total (Change in costs — Cost offset) ($ million) = **-$75.5 million**				

5. Consultation

Treasury released a consultation paper on potential improvements to the unclaimed monies provisions on 26 May 2014 on the Treasury website. Consultation closed on 11 July 2014. As of 22 July 2014 Treasury had received 18 submissions on the options detailed in the discussion paper. The objective of this consultation round was to inform the options detailed in this Regulatory impact statement. A summary of non-confidential stakeholder submissions can be found in Table 14.

The submissions received do not present a consensus view on the required period of inactivity. However, the majority of the submissions considered that a required period of inactivity of three years was inadequate. There was also broad support for the exemption of FCAs and children's accounts from the provisions and a firm view that the provisions do not adequately protect account holders' personal details.

Treasury is undertaking public consultation on all draft legislation, draft regulations, and explanatory materials generated as part of the process of reforming the unclaimed monies provisions. This will

take place during May2015, with draft materials uploaded to the Treasury website and four weeks provided for public submissions. Opening submissions up to the public online ensures that consumers and businesses both have the opportunity to comment on legislation that may affect them. This round of consultation will be useful in identifying potential issues with the draft legislation. Stakeholders' concerns will be reflected in the finalised legislation.

Table 15: Summary of stakeholder submissions

Author	Content
Submissions received from organisations	
Australian Restructuring Insolvency and Turnaround Association (ARITA)	• ARITA note that under the Corporations Act dividends or monies in a corporate insolvency are to be paid to ASIC by the trustee if they remain unclaimed for six months. A creditor may then apply to ASIC for payment if the creditor claims to be entitled to the money. • Under the Bankruptcy Act any unclaimed monies are to be transferred to the Commonwealth. A person claiming those monies must apply to the Federal Circuit Court or the Federal Court for an order declaring that person is entitled to those monies. ARITA recommend that the Bankruptcy Act be amended so that those entitled to the funds only need to apply to ASIC to access them.
Australian Bankers Association (ABA)	• The ABA supports a return to a **seven year required period of inactivity**. They believe that this better aligns with the way that customers use their accounts (for example, at call savings accounts). • The ABA note that a return to seven years would likely halve the number of accounts transferred. This would reduce the administration, marketing, and complaints handling costs for ADIs. • The ABA notes that on average the cost of implementing a new required period of inactivity would be $50,000 to $250,000 per bank. Once changes are made however, the industry estimates that savings would be in the range of $95,000 to $350,000 per bank. • The ABA believes that banks require a transitional period of approximately one year to implement the required systems changes. • The ABA recommend that the following accounts be excluded from the provisions: – credit accounts – investment accounts (for example cash management accounts) – children's accounts – bank cheques – linked accounts, sub accounts, and other bundled accounts – all non-resident accounts – controlled accounts and accounts with restrictions on transactions – government designated special purpose deposit accounts – foreign currency accounts – term deposits. • The ABA does not support ADIs being responsible for managing unclaimed monies. They support ASIC's continued management of the unclaimed monies scheme.

Author	Content
	• The ABA does not support the use of TFNs to reunite individuals with their accounts. This is as ADIs do not currently collect TFNs and would add additional complexity and regulatory burden. • The ABA believes that consideration should be given to special arrangements to fast-track the return of monies from ASIC for those customers who identify as experiencing financial difficulties. • The ABA recommends reducing the amount of information made public on the ASIC website to the first initial, family name, and suburb of each customer. • The submission notes that Government should adequately communicate any policy changes to the community to aid consumers' understanding of the unclaimed monies provisions.
Bendigo and Adelaide Bank	• Bendigo bank supports a **required period of inactivity of five years**. A change to five years would have a minimal cost, and could be implemented by January 2015. • Bendigo recommend that the following products be exempted from the provisions: – credit accounts – escrow accounts – controlled accounts – accounts held as security – farm management deposits – term deposits – foreign currency accounts. • Bendigo bank supports the use of TFNs in reuniting individuals with their unclaimed accounts. • Bendigo recommend that the MoneySmart unclaimed money database be supplemented by the unclaimed money data held by each State and Territory in order to create a single database. This should then be managed by a single Government entity, such as the ATO. This may enable the ATO to assist individuals in locating their funds when they lodge a tax return. • Bendigo recommends that a certain portion of the unclaimed monies revenue should be managed by an independent investment board that can target investments that provide a commercial return in Australian communities.
Customer Owned Banking Association (COBA)	• COBA support the continuation of a **required period of inactivity of three years**, arguing that many of the subsequent changes to notification requirements will mean that the majority of accounts transferred to ASIC in the future will be genuinely unclaimed. • COBA argue that as a result a change in the required period would not have a noticeable impact on the number of accounts transferred to ASIC, however it would make it harder to ADIs to locate individuals with unclaimed accounts. • In addition, COBA note that ADIs have already changed their systems to comply with the current provisions, and that any change will have an initial cost.

Author	Content
	• If changes were to be made to the required period, COBA note the need for a transitional period of at least a year. • COBA support the linking of unclaimed accounts to growth in the CPI to ensure their real value is maintained. The Government, however, should ensure that the tax treatment of unclaimed accounts
Financial Rights Legal Centre (FRLC)	• The submission supports extending the **required period of inactivity to five years** as they believe that this strikes the right balance between protecting the value of consumers' accounts and ensuring that the funds are actually unclaimed. • The FRLC submits that consumers must be notified in writing prior to any unclaimed monies being sent to ASIC. • The FRLC does not believe that further accounts should be exempted from the unclaimed monies provisions. • The FRLC argues that only a minimum of personal details should be available publicly (that is, just their name) with further known details kept privately by ASIC.
Financial Services Council (FSC)	• The FSC note that unclaimed life insurance policies in Australia can be divided into two types of business — ordinary business and superannuation business. The FSC note that each should receive different treatment. • The FSC recommends that the Government consult with the life insurance industry to implement appropriate amendments to the unclaimed monies provisions to ensure that it reflects the variety of products that it regulates. • The FCS notes that superannuation business typically relates to deferred annuity products. Unclaimed superannuation money from superannuation funds and Retirement Savings Account providers is paid to the ATO. The FSC recommend that funds from life insurers 'superannuation business' should be transferred to the ATO. • The FSC recommends that the process for reuniting consumers with their funds should be amended to allow either: ASIC to make the payment directly to the fund holder once they become aware of the account or the insurer should retain the funds and simply report the 'lost policyholder' to ASIC for publication on the register.
HSBC	• HSBC support a **required period of inactivity of five years** before accounts can be transferred to ASIC as it would reduce the regulatory burden associated with the provisions. • HSBC support the exclusion of Foreign Currency Accounts from the unclaimed monies provisions
National Seniors Australia (NSA)	• NSA supports a return to a required period of inactivity of seven years as the observed increase in collections has not been matched by the increase in claims. • NSA suggest amending subsection 69(4) and 69(9) to amend the level of personal detail published about an individual with unclaimed money. This is as older Australian's are more prone to victimisation and fraud. They support removing the ADI branch, and the last known address fields from the requirement to be published.

Author	Content
	• The submissions suggests that the Government should establish a phone line through MoneySmart to support enquiries on unclaimed money or life insurance for older Australians who are not online. • NSA propose that the Government should implement a log-in system similar to that available for locating lost superannuation through the ATO to recover unclaimed accounts and life insurance amounts.
Office of the Australian Information Commissioner (OAIC)	• The OAIC recommend reducing the amount of personal information publicly available on the ASIC MoneySmart website. • The OAIC did not support the use of tax file numbers as a tool to reunite individuals with unclaimed accounts with their funds, noting that this would require amendments to legislation and the tax file number guidelines.
Submissions received from individuals	
Steve Browning	• Mr Browning states that the Provisions should include a requirement that the financial institution write to the last known address of the account holder before an unclaimed bank account can be transferred to ASIC. • Mr Browning believes that the Government should guarantee the money for affected entities and pay interest at the rate of CPI. • He suggests that it should be a legal requirement for all Estates that a documented search of the unclaimed monies register be conducted before probate can be legally granted.
Leo Hammond	• Mr Hammond suggests that the Government should abolish the unclaimed monies provisions.
Tim Holton	• Mr Holton supports a return to a **required period of inactivity of seven years**. • Mr Holton suggests that the Government should establish a checklist for ADIs to follow when attempting to make contact with the owner, or relatives of the owners, of the unclaimed monies.
Donald Macansh	• Mr Macansh suggests that the Government should establish a checklist for ADIs to follow when attempting to make contact with the owner, or relatives of the owners, of the unclaimed monies.
Peter Sutherland	• Mr Sutherland argues that the provisions should include a requirement that the financial institution write to the last known address of the account holder before an unclaimed bank account can be transferred to ASIC.

6. Preferred option

Option 2 (that is, extend the required period of inactivity to seven years; exempt FCAs and children's accounts; introduce secrecy provisions and cease the publication of the Gazette; and prevent 'identified' accounts from being transferred to ASIC) is the preferred option. This is because:

- this Option will best address the main identified problem by preventing up to 20,000 effectively active accounts (in real terms) from being transferred to ASIC each year (reducing the risk that Australians will be placed in a position of financial hardship as a result of the provisions);
- by exempting FCAs and Children's accounts from the provisions, Option 2 will align their treatment with the way that these products are used by the community;
- the introduction of Secrecy Provisions and the cessation of ASIC's Gazette will mitigate the risk of identity theft (a concern of the Australian Information Commissioner) and work to prevent businesses from taking advantage of Australian's with unclaimed accounts;
- this option's components were supported by the majority of submissions received during the Government's consultation in 2014; and
- it generates the largest ongoing compliance cost savings for the community (approximately $36 million per annum).

In addition, while Option 2 does have the largest budget impact of the options considered (as a result of the Government not collecting any accounts for at least four years), this cost is temporary and does not significantly alter the longer term trajectory of the budget's balance.

Finally, while Option 2 will require account holders to learn about the new provisions and understand the steps that they can take to prevent their accounts from being transferred, the Government and service providers have a number of years to communicate this to the community (for example, through the Money Smart website).

6.1. Non-preferred options

Option 1, to maintain the status quo, was not considered a viable alternative to Option 2. Option 1 failed to address the underlying problem of effectively active accounts being transferred to ASIC. While the number of effectively active accounts may have diminished naturally over time without change, as a result of account holders becoming more aware of the provisions and the steps that they could take to avoid their accounts being transferred, it is believed that this would have been insufficient to offset the increase in accounts transferred since 2012.

Additionally, while Option 1 did have the advantage of not requiring industry to make changes to their systems and not requiring account holders to learn about a new set of provisions, there were also no offsetting reductions in compliance costs for individuals or industry.

Option 3 was also not considered to be a viable alternative to Option 2 for similar reasons. While it would have addressed the problem of effectively active accounts being transferred to ASIC to an extent, the evidence on account collections from 2012 onwards clearly indicates that the required period of inactivity is the largest driver of account collections. Option 3, therefore, if implemented, would have still required industry to change their systems (though to a lesser extent that in Option 2) and account holders to understand the changes made, but would not have addressed the main problem or generated large regulatory savings.

Option 4 would have resolved both problems with the existing provisions. However, it would have failed to meet the primary objective of the provisions which is to protect the value of an account from being eroded by bank fees and charges over time. Abolishing the provisions would therefore likely result in a direct transfer of wealth from account holders to their financial institution.

Option 4 was considered unacceptable in the context of the government's efforts to improve the budget's position as it would represent a structural reduction in non-tax revenue.

The Government did not elect to extend the required period of inactivity to five years despite this being the preferred approach of HSBC, Bendigo and Adelaide Bank, HSBC, and the Financial Rights Legal Centre. 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 to helping to minimise adjustment costs for industry and consumers, a seven year period of inactivity also better addresses the problem of effectively active accounts being unnecessarily transferred to ASIC. For example, assuming a linear relationship between the required period of inactivity and the number of accounts transferred to ASIC, a period of inactivity of five years would result in approximately 25 per cent more accounts being transferred each year. While this would be an improvement on the status quo, it would still represent a significant regulatory burden on consumers and industry that would have had to continue to reclaim effectively active accounts from ASIC. In contrast, the chance of accounts remaining active after seven years of inactivity is extremely low. This is reflected in the large regulatory savings associated with the Government's preferred option.

7. Implementation and evaluation plan

7.1. Implementation plan

Option 2 will require legislative changes to the *Banking Act 1959* and the *Life Insurance Act 1995* and changes to the *Banking Regulations 1966* and *Life Insurance Regulation 1995*.

The Government contacted stakeholders directly while the legislation was being initially drafted to ensure that there were no significant gaps in the draft legislation.

The Government subsequently released the draft Bill for four weeks public consultation on the Treasury website and key stakeholders (including those that made submissions on the Government's unclaimed monies discussion paper in 2014) were specifically invited to make submissions.

Ensuring that the final Bill is introduced in mid-2015 will ensure that industry has certainty about the forthcoming changes, allowing them to make the required updates to their systems ahead of the new provisions commencing on 31 December 2015. If the Bill's introduction was to be delayed or substantially changed by Parliament, it would likely result in higher implementation costs for industry as changes to IT systems and internal processes would have to be completed on a more condensed timeline.

No additional resources are required by the Government to implement Option 2.

7.2. Evaluation plan

Transfer of accounts to ASIC

The Government's first opportunity to determine the effectiveness of its changes to the unclaimed monies provisions, in relation to the transfer of effectively active accounts, will be in April 2019. The earliest date that accounts inactive for seven years will be transferred to the Government is 31 March 2019. A measure of success would be a significant (30 to 50 per cent) real decline in the number of accounts transferred to ASIC. This should be judged against the 100 per cent increase in the number of accounts transferred to the Government each year since the 2012 changes.

If there was not a significant reduction in account transfers, the Government could undertake a post implementation review and consult with banks and life insurers to identify any problems with the legislation that may have resulted in its failure.

Industry has not voiced any concerns with the Government's proposed approach that may indicate risks in meeting this objective in 2019.

Enhanced privacy protections

Determining whether the Government's changes to privacy protections have been successful will be more difficult. There is an absence of reputable data on the number of unclaimed accounts that have been returned to account holders through a third party for a fee. As the Government was alerted to this problem by stakeholders (including the ABA and NSA); and members of the public through direct correspondence with the Government, the Government will monitor future correspondence with these organisations to determine whether this problem has been resolved. The Government will also maintain regular contact with ASIC to try and monitor the existence (and use of) money finding companies that reunite account holders with their funds for a fee.

Similarly to above, if the problem of account holders being charged large fees to be reunited with their own funds continues, the Government could undertake a post implementation review and consult with banks, life insurers, and consumer groups, to identify any problems with the existing legislation. The Government has not been alerted to the existence of any risks to achieving its privacy objectives.

Appendix — Assumptions behind the regulatory costing

The following data and assumptions have been used to assist Treasury in costing each of the options outlined in Section 3.

The ABA provided Treasury with the following estimates of regulatory costs and savings associated with extending the required period of inactivity (Table 15) under the unclaimed monies provisions in its submission to Treasury's discussion paper on the unclaimed monies provisions.

Table 15: ABA's estimates of regulatory costs and savings associated with extending the required period of inactivity

Effect of policy change	Regulatory cost/(saving)
Implementation costs (that is, the costs associated with updating IT systems, changing staff processes, or a combination of the two) [this is a one off cost in year 1]	$50,000 — $250,000 per institution or $500,000 — $1,000,000 per institution (if the regulatory changes result in systems being entirely rebuilt)
Savings due to having to transfer less accounts to ASIC [this is an annual saving]	($95,000) — ($350,000) per institution

In order to complete our regulatory costing we have assumed that:

- there are 70 small ADIs;
- 92 large ADIs; and
- 28 life insurance providers.

This is based on the register of ADIs maintained by the Australian Prudential Regulation Authority (APRA) and APRA's life insurance statistics (as of March 2014).[8] We assumed that all building societies and credit unions were small, while the remainder of ADIs operating in Australia were large.

We have assumed that the implementation costs provided to us by the ABA will be towards the upper end of each estimate for large ADIs and towards the lower end for smaller ADIs for the following reasons. We believe that smaller ADIs are likely to transfer fewer accounts each year than larger ADIs and consequently should be more likely to rely on manual rather than IT processes to ensure compliance with the provisions. Conversely, large ADIs, meanwhile, are conversely thought to be more likely to invest in an automated process which would come at a larger cost.

While each of these institutions must complete an annual unclaimed monies report, ASIC has advised that a large percentage of ADIs do not transfer any accounts each year (this was the case for 90 out of 162 institutions in 2013-14). Consequently, we have not calculated savings associated with transferring fewer accounts, or having to reclaim fewer accounts for the 70 small ADIs. Note, the costs of upgrading systems and processes is still calculated for these entities as while they may not have transferred accounts in any year, there remains the chance that that they will in the future and at this point in time will have to comply with Government policy.

8 APRA Life Insurance Statistics March 2014.

This number is not higher as we have assumed it to be unlikely that more than half of all ADIs will continue to not transfer any accounts to ASIC on a perpetual basis. This assumption aligns with the submission from COBA on the May discussion paper that noted that it was unlikely that extending the required period of inactivity would generate savings for their members (which are generally smaller ADIs).

The ABA's submission noted that larger banks (their members) would likely see ongoing annual regulatory savings as a consequence of this change.

In order to complete our regulatory costing we have also estimated the number of account holders affected by the provisions each year. We know that:

- funds from 39,964 accounts were transferred to ASIC in 2013-14; and
- funds from 156,000 accounts were transferred to ASIC in 2012-13; and
- we have estimated that funds from 20,131 accounts were transferred to ASIC in 2011-12.

Data is not available to indicate how many accounts were transferred in 2011-12, as prior to 2012-13 ASIC did not collect data on a financial year basis. However, by assuming a relatively constant average balance we have been able to estimate the number of accounts affected in 2011-12.

This was calculated by determining the value of the $146 million collected in 2013-14 in 2011-12 dollars. Assuming an average discount rate of 2.5 per cent (long term average inflation) this was equal to $138.96 million. The ratio between this value, and the actual value collected in 2011-12 collection was then applied to the number of accounts collected in 2013-14.

As accounts can only be reclaimed one at a time, not in bulk, we have assumed that each affected account represents one individual, despite the fact that some individuals may have multiple accounts transferred in one year (for example, sub or linked accounts where each account must satisfy the inactivity requirements).

In line with the Office of Best Practice Regulation's (OBPR's) recommendations, we have assumed an hourly wage of $34.20 an hour and a non-wage labour cost rate equal to 75 per cent of the total wage cost. This brings the total assumed labour cost to $59.85 per hour. We have assumed that the value of an individual's time is equal to $34.20 an hour. We have not introduced wage-inflation into our costings. All values are presented as real values in 2013-14.

This is likely to be a conservative estimate of the wages earned by employees working for ADIs and life insurers. This is because the average weekly ordinary time earnings for those employed in the finance and insurance industry in March 2014 was $1665.30. This equates to $43.82 an hour for a 38 hour week which is 22 per cent higher than the OBPR's suggested wage. This conservatism works to somewhat offset other errors that may enter our costings due to a lack of data on the number and types of different accounts administered by ADIs. These wages have been used to generate costs using the Regulatory Burden Framework in line with the costs provided to us by the ABA.

Note: We have a medium level of confidence in the magnitude of the costs and savings provided; however, each component of this regulatory costing has been estimated using only a limited amount of data.