

Manager
Benefits and Regulation Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: strongersuper@treasury.gov.au;

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Grant Thornton Australia Limited
ABN 41 127 556 389

Level 17, 383 Kent Street
Sydney NSW 2000
Locked Bag Q800
QVB Post Office
Sydney NSW 1230

T +61 2 8297 2400
F +61 2 9299 4445
E info.nsw@au.gt.com
W www.grantthornton.com.au

GRANT THORNTON SUBMISSION – EXPOSURE DRAFT – SMSF AUDITOR REGISTRATION

Grant Thornton Australia is pleased to provide Treasury with its comments on the Exposure Draft – SMSF Auditor Registration legislation and explanatory material (the ED).

Normally Grant Thornton's response would reflect our position as auditors and business advisers to listed companies, privately held companies and businesses, not-for-profit organisations and wealth management groups, and this submission should have benefited with input from our clients, and discussions with key constituents. However given the short period of time that the ED has been exposed for comment (less than 3 weeks), Grant Thornton's consultative process has been significantly limited.

Grant Thornton does not support the ED for the following reasons:

- 1 The Government has not allowed a sufficient period of time to enable meaningful consultation to assist in identifying and mitigating likely unintended consequences. Given that the Exposure Draft was released on Monday 16 July 2012 and submissions are due by Friday 3 August 2012, it is open to question as to whether the Government is at all serious in seeking meaningful comment. We suggest that as a minimum, there should be a 2 month consultation period. We believe that the parliamentary process will view the Government's deliberations with much alarm and thereby requiring greater parliamentary scrutiny, and consequent delay in progressing these reforms.
- 2 The Bill is incomplete as there are numerous gaps in the Explanatory Memorandums (EMs) and the Bills e.g. EM 1.2 Schedule reference is to #. As such the start date of 1 January 2013 is unrealistic for SMSFs given the lack of detail in the Bill. SMSFs should not have rushed with potential ill-considered legislation due to Government delays in the process of establishing legislation. The Stronger Super Reforms were announced on

16 December 2010 some 18 months ago, and the decisions on key aspects were announced by the Government on 21 September 2011 some 9 months ago.

- 3 The implications of the Bill are unclear as there is continual reference to Regulations that are not yet available. Legislation by Regulation is 'bad' Law as it is not subject to Parliamentary scrutiny.
- 4 The costs/benefits are not clear as no specific fees structure has been provided and hence it is open ended. Given the importance of SMSFs to retirement income for many Australians, this legislation could impose significant costs to both auditors and SMSF's beneficiaries and at a cost to the Government given lower net investment returns (eg EM 1.125 & 1.51).

Our specific comments on the ED follow:

A. Explanatory Memorandum Superannuation (Self-Managed Superannuation Fund Auditors) Fees Imposition Bill 2012

Given the importance of the SMSF Industry to Australians Retirement incomes, it is unacceptable that any search of the ASIC Registers which is done electronically, should be subject to unspecified fees. Trustees should be able to obtain information on whether an SMSF auditor is registered, without cost. In the same way that a search of the ASIC Registered Company Auditor database is without cost. The EM notes that ASIC will collect \$0.9 million in registration, lodgment and examination fees.

Why should auditors be subject to additional fees that may or may not be completely passed on to SMSF beneficiaries when the benefits of more regulation are not at all clear? For existing Registered Company Auditors that are already subject to ASIC monitoring, there appears to be minimal public benefit in the SMSF registration process. Grant Thornton therefore questions the rigor of the adequacy of the Office of Best Practice's Regulation Impact Statement (RIS) of which no details have been provided.

The comparison Table refers to Section 128L SIS charges but these are not explained and a fee not exceeding \$1000 is not explained as to what this fee might be for.

B. Explanatory Memorandum Superannuation Legislation Amendment (Stronger Super and Other Measures) Bill 2012

Given the importance of the SMSF Industry to Australians Retirement incomes, costs of \$29.7m over 5 years require a detailed explanation as this seems to be imposing unnecessary compliance costs and Grant Thornton questions the rigour of the RIS.

1.6 For those approved auditors who are already subject to SMSF competency standards through their professional bodies' membership, and comply with the respective quality requirements including specialized SMSF industry training and experience, we question whether there should be a significant cost associated with SMSF auditor registration.

1.7 It is unacceptable that no action appears to have been taken by the ATO on Independence issues and this suggests it is an ATO issue rather than increased and unnecessary legislation.

1.9 Grant Thornton questions the relevance of the Super System Review's argument for independence requirements for SMSF auditors when there are already appropriate Independence requirements in the Corporations Act and global Independence requirements as contained in APES 110.

1.12 Refers to a non-existence Schedule of the Bill that will set out critical elements of the legislation being: definitions, registration requirements, on-going obligations and ASIC and ATO powers.

1.18 Only allows individuals to be an SMSF auditor. Audit Firms and Audit Companies that ASIC allows for Corporations Act audits should also be allowed.

1.29 It is not clear what process ASIC will use to exempt SMSF auditors from some of the registration requirements nor the mechanism that ASIC be allowed to place conditions on such registration. Grant Thornton believes that existing RCAs who meet the current SMSF audit competency standards through their professional bodies' membership, and comply with the respective quality requirements including specialized SMSF industry training and experience should be automatically registered as SMSF auditors at no significant cost.

1.43 & 1.44 Refers to significant audit work which is an on-going requirement for registration and that therefore needs to be defined, with specific reference to the number and size of SMSFs.

1.47 to 1.54 Imposes obligations on SMSF auditors however no details are given.

1.53 Refers to the Guidance Statement GS 009 which is not mandatory on SMSF auditors!

1.55 to 1.58 Requires ASIC compliance but no details are provided.

1.65 to 1.77 Refers to various fees however the relevant Schedules are not available.

1.87 to 1.92 Refers to proposed ASIC competency standards but no details are provided. Grant Thornton believes that existing RCAs should be exempted from additional and unnecessary requirements.

1.131 It is not clear why approved SMSF auditors cannot have their details referred to a professional association which is not defined.

1.152 Refers to transitional SMSF registration but it is not clear who an approved SMSF auditor is, and who is entitled to such transitional registration.

1.156 No Regulations are available to explain the circumstances of meeting compliance.

1.157 ASIC's discretion requires explanation as the Schedule is missing.

If you require any further information or comment, please contact me.

Yours sincerely
GRANT THORNTON AUDIT PTY LIMITED



Keith Reilly
National Head of Professional Standards