

1 December 2017

Mr. John Stamp
Senior Policy Officer
Policy and Guidance
AUSTRAC

By email only:
john.stamp@austrac.gov.au

Dear Mr Stamp

Development of AML/CTF Guidance for the Superannuation Sector (Guidance)

The Financial Services Council (**FSC**) has over 100 members representing Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. The industry is responsible for investing almost \$3 trillion on behalf of more than 14.8 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the fourth largest pool of managed funds in the world. The FSC promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.

Thank you for the opportunity to provide a submission on this topic.

Comments

For convenience, we have set out a number of observations in the **attached** marked-up copy of the Guidance. Our members support the principles of the AML-CTF rules. However, there are a number of issues of a practical nature contained in the Guidance. We would be happy to provide further comment on these if this is of assistance.

Further Worked Example for AUSTRAC consideration

In addition, one of our members has suggested the worked example set out below for your consideration.

Background

As you would appreciate, superannuation benefits generally cannot be accessed until a member meets the preservation age as defined by relevant legislation. However there are some other scenarios under which members can access benefits where a condition of release is met.

Release of Benefits

For example, the Department of Human Services (**DHS**) allows early release of benefits on the grounds of severe financial hardship, with a maximum of \$10,000 including tax payable within a 12-month period. There are DHS eligibility criteria that the member needs to satisfy. Once the member produces complying documents, the Trustee is able to release the specified portion to a nominated personal bank account or by cheque.

Practical Implications

There appears to be little in the way of practical limitations which prevent the same letter from DHS being supplied to multiple funds requesting early release on the grounds of financial hardship. A member has seen instances in the past whether an unusually high amount of requests are being received to establish new accounts with subsequent instructions to break up accumulated moneys to other funds.

Example

As an example, below is a case outlining the flow of potential early release of superannuation benefits.

- Mr X establishes Superfund A account through an online application
- Account receives a rollover in from an external fund
- Mr X requests Superfund A to rollover six separate amounts of \$X to other funds
- Once these six individual rollovers are complete, Mr X lodges a financial hardship claim with Superfund A to access the remaining account balance – which would be processed
- Other trustees also release \$X each to Mr X through the same financial hardship request
- Thus, Mr X has accessed the entire \$x through multiple financial hardship claims during the 12 month period

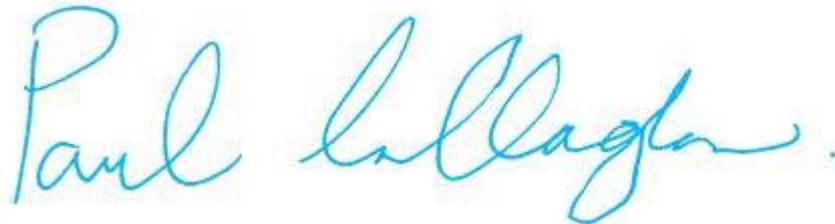
A common link in these accounts could be the use of the same Justice of the Peace for execution of documents. These matters could

be raised with the respective AML teams through an Unusual Activity Report for consideration of a Suspicious Matter Report.

We trust our observations are of assistance.

Should you have any questions, please contact the writer on 02-9299 3022.

Yours Faithfully

A handwritten signature in blue ink that reads "Paul Callaghan." The signature is written in a cursive style with a period at the end.

Paul Callaghan

General Counsel