



10 June 2021

Tax Practitioner Consultations
Australian Taxation Office
Attention: Mr Ken Kua

Email: TaxPractitionerConsultations@ato.gov.au

Dear Mr Kua,

SMSF ASSOCIATION SUBMISSION: CONSULTATION PAPER – TRANSITION TO STRENGTHENING CLIENT VERIFICATION

The SMSF Association welcomes the opportunity to provide a submission on consultation paper: *Transition to strengthening client verification (QC65469)*.

We welcome any measures that seek to improve the integrity of the taxation system, protect individuals from identity theft and fraud. Further, we particularly welcome measures that seek to improve the security for Self Managed Super Funds (SMSFs) and more broadly protect individuals and their superannuation benefits.

Tax agents play an important role in maintaining the integrity of the taxation system and as such view the proposed introduction of client verification as an essential part of that role.

However, accountants, and tax agents (who are not licensed financial advisers), are not required at law to meet the Anti-Money Laundering and Counter-Terrorism Financial Act 2006 (“AML/CTF Act”) due to the nature of the services provided. We see the proposed changes as closing that gap.

The alignment of the proposed ATO guidelines to those required for financial advisers under the AML/CTF Act is seen as both practical and sensible. This provides consistency in its application across sectors. It also means that tax agents who are also licensed financial advisers, although having to comply with obligations from different sources, the form and function of those provisions are practically aligned. This alleviates any unnecessary compliance and administrative burdens.

We welcome the ATO’s proposed transitional approach. This allows for a smooth transition as firms adopt the necessary changes to their firm policies, procedures, and practices. Any retrospective application would create significant and unnecessary work for tax agents.

The Association is very concerned where cases emerge of an SMSF being used as a vehicle to fraudulently obtain an individual’s superannuation benefits due to identity theft. We see these proposed measures as having broader application to assist with fraud prevention in such circumstances.

Feedback from our members highlights that there are instances of large APRA regulated superannuation funds not processing or acknowledging rollover requests made via an individual’s MyGov account, where the receiving fund is a SMSF.



We acknowledge that such funds are required to undertake processes to meet their obligations and fraud prevention and identification processes. There are however concerns about this practice continuing once SuperStream is implemented for rollovers to and from SMSFs, given the intention of these electronic services was to improve efficiency and system integrity.

We would welcome further discussions and consultation with the ATO on how tax agents can play a role in identifying and verifying SMSF members and how that information can be made available to the large ARPA regulated superannuation funds through existing protocols. We see this as an opportunity to further enhance the security and integrity of the system and reduce superannuation fund fraud.

We refer to the consultation questions and provide our feedback below.

1. What impact will this new client verification method have on your existing processes?

Firms will need to ensure that their policies, procedures, and checklists are all updated to include these changes and staff adequately trained. Once implemented, these processes should comfortably form part of any client on boarding processes, and over time add only a small amount of additional time.

2. How would you prepare new clients for this process?

3. What could the ATO do to assist in this?

A client centric fact sheet published by the ATO would go a long way in assisting tax agents in communicating these changes with both current and new clients. It must be remembered that this will be new to clients as well. Having ATO branded collateral to support tax agents will therefore play an import role. Consideration should also be given to implementing a public awareness campaign to support tax agents.

Any materials to assist tax agents such as practice checklists to assist and guide them in getting their business and staff ready for the changes would be welcomed.

The publication of ATO forms (not to be lodged) that can be used in practice to assist tax agents in meeting their obligations should be considered. These could act as a data collection tool as well as set out the obligations that apply, and forms of identification for the different categories of taxpayers, whether they are an individual, company, trust, or SMSF.

These would ensure that an appropriate process is followed, data collected and recorded.

The FPA and FSC jointly issued forms of a similar nature that are designed to assist financial advisers meet their AML/CTF client verification obligations. These have been widely adopted by financial planning licensees and firms as part of their compliance practices.

4. In regards to Relationship verification, what challenges do you see in regards to your clients?

Many accountants and tax agents would not be familiar with document verification services (“DVS”). The benefits of such a service are acknowledged however concerns will emerge on the costs of entering into the necessary commercial arrangements to access these services.

The expectation from some tax agents could be that DVS services would be available via the ATO’s Online services for agents, rather than tax agents having to engage a third party. If this were to be



made available, it will also allow for process streamlining, allowing a new client to be added and the verification process completed efficiently. We understand that the system architecture is currently available, including via MyGovID.

5. Are the guidelines clear and easily understood?

This process will be new to most accountants and tax agents. We therefore strongly urge the ATO to implement an education program to inform, guide and assist practitioners in their preparation for these changes.

The guidelines align to the identification and verification requirements that apply to financial advisers and other professions under AML/CTF Act and Austrac. However, there is a need for further case study examples and guidance to address a broader range of circumstances that could arise in practice. Examples include where:

- Another professional refers a client to the tax agent; or
- An engagement is with another professional, such as a lawyer, acting on behalf of another person; or
- A person acts as a representative of either an incapacitated or intellectually disabled person.

Greater clarity is needed on when tax agents will be required to complete client verification. Will tax agents be required to verify all new clients regardless of the type of tax agent service to be provided?

The reasonable care component of the guideline's should reference the tax agents Code of Professional Conduct in the *Tax Agent Services Act 2009* ("TASA"). Tax agents need to be made aware of their broader responsibilities under the TASA Code as well as the requirements set out in the guide. In the guide's current form, the nexus to the TASA code is implied but not explicit.

There will likely be issues that arise in practice that are not fully contemplated in the guidance document. The guide should be supported with a frequently asked questions page (or similar) to publish compliance questions received from tax agents, to help and inform others. Importantly, this should be regularly updated as more question data is collected.

If you have any questions about our submission, please do not hesitate to contact us, and we thank you again for the opportunity to provide this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Peter Burgess', written over a faint circular stamp or watermark.

Peter Burgess
Deputy CEO/Director of Policy and Education
SMSF Association



ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing SMSF sector which is comprised of over 1.1 million SMSF members who have more than \$700 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.