



7 December 2022

Tax Administration Unit  
Personal and Indirect Tax, Charities and Housing Division  
Treasury  
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Parkes ACT 2600

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Dear Sir/Madam,

**SMSF ASSOCIATION SUBMISSION – STRENGTHENING THE ABN SYSTEM**

The SMSF Association welcomes the opportunity to provide this submission in response to exposure draft *Strengthening the ABN System Bill*.

The SMSF Association supports designing a modern Australian Business Number system, which combats the Black Economy and improves the integrity of the GST and income tax systems.

It is the SMSF Association's understanding that SMSFs are not the intended target of these reforms and as such we propose that SMSFs be exempt from periodic renewals.

SMSFs pose a minimal risk to the Black Economy as:

- they have minimal engagement with the GST system as only a small number of SMSFs are registered for GST with limited ability to claim input tax credits (due to mainly holding input tax assets),
- the SMSF Association does not believe that an ABN plays a role in perpetuating superannuation schemes, such as illegal early release of superannuation, and
- they are currently subject to regular review through the yearly audit requirement and subject to pre-issue checks by the Australian Taxation Office when applying for ABNs.

In an SMSF context, ABNs have an additional, unique role over and above the operation of the tax and GST system. For SMSFs, ABNs are a key fund identifier when dealing with government agencies and government mandated systems. This includes the Superfund Lookup Register which is vital for recording and reporting a fund's compliance status. The other is SuperStream which is a legislated requirement and protocol administered by the ATO. SuperStream impacts a fund's ability to:

1. Receive contributions from third parties (e.g., such as employers)
2. Receive excess contributions notices
3. Receive release authorities from the Commissioner regarding excess contributions and Division 293



4. Receive member rollover requests (including requests made via another superannuation fund); and
5. To give effect to all rollovers either to or from an SMSF.

The use of ABNs in this context is a specified, legislated role. It acts as a unique fund identifier for SMSFs within the SuperStream protocols.

Where a fund has outstanding lodgement obligations, the Commissioner already has the ability to withdraw the fund's details from the SuperFund Lookup register. Where serious non-compliance occurs, the Commissioner may render the fund non-complying. Both actions have the immediate effect of stopping all employer contributions to the fund as well as any rollovers to or from the fund.

SMSF trustees already have an obligation to report and update the fund's registration details within 28 days after the occurrence of the change to the Commissioner of Taxation (*Superannuation Industry (Supervision) Regulations 1994 11.07AA*). Those details include:

- a) the name of the entity
- b) the postal address, registered address, or address for service of notices, of the entity
- c) details of the contact person, and contact telephone and facsimile numbers
- d) the membership of the fund
- e) the trustees of the fund
- f) the directors of the fund's corporate trustee.

The above fund details are all linked to the SMSFs ABN record. Those changes can be made via the Australian Small Business Register or by using the prescribed form. Refer to ATO QC 23334 and form NAT 3036.

If SMSFs are not exempt from this proposal, and an ABN is inadvertently not renewed, the SMSF is at risk of not being able to receive rollovers or the rollovers being delayed. This risk will also extend to the ability for SMSFs to accept employer contributions. This not only negatively impacts the member of the SMSF but also employer making superannuation guarantee contributions.

We have concerns regarding the proposed measure that would see an ABN cancelled where a taxpayer has not lodged two or more income tax returns. We note that the proposed measure would not necessarily require that the income years are consecutive. Caution is needed to ensure that taxpayers are not penalised by this regime if they have:

1. Engaged with the Commissioner
2. Negotiated lodgement extensions; or
3. Been impacted by significant life events or natural disasters

These taxpayer's should not be required to navigate significant red tape given their circumstances.

In an SMSF context, the ABN should only be cancelled where the fund is intended to be wound up or is found to be non-complying. Our position is that in the current environment, an ABN does not play a role in perpetuating superannuation schemes, such as illegal early release of superannuation. The



use of an ABN by an SMSF is mainly as an identifier when accepting contributions from third parties such as employers and using SuperStream for rollovers to and from SMSFs. We support an ABN system for SMSFs which provides a low cost and a simple administration and application process.

To include SMSFs in this reform creates unnecessary red tape. As mentioned, SMSFs are already obliged to update their ABN records within 28 days when changes occur. SMSFs are also subject to regular review through the yearly audit requirement and are subjected to stringent pre-issue checks by the Australian Taxation Office when applying for an ABN. In addition, if an SMSF annual return is two or more weeks overdue, the Commissioner already exercises his administrative powers to remove the SMSF from Super Fund Lookup.

Given the Commissioner's existing powers and levers that apply for SMSFs, the low participation of SMSFs engaging in black economy activities, the significant risk of disruption, and the impact these measures could have to the operation of a SMSF, we strongly recommend that SMSFs be excluded from these proposed measures.

If you have any questions about our submission, please do not hesitate to contact us.

Yours sincerely,

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

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

### **ABOUT THE SMSF ASSOCIATION**

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.