SMSF Owners' Alliance
Limited ABN 96 161 052 464
Not-for-profit public company

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The Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Parliament House
Canberra ACT 2600

Inquiry into Superannuation Legislation Amendment (Reform of Self Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013.

This non-confidential submission to the Committee is made by the SMSF Owners' Alliance Limited (SMSFOA), recently formed to represent the interests of the trustees and beneficiaries of self-managed superannuation funds (SMSFs). Further information on SMSFOA can be found at www.smsfoa.org.au

SMSFOA notes that minimal information has been given in the 2012-13 MYEFO, the Explanatory Memorandum and the Minister's Second Reading Speech to justify a 50% increase in the maximum levy to cover the cost to the Australian Taxation Office of supervising SMSFs.

The increased cost of the levy for an individual SMSF may be relatively small in dollar terms, however the overall cost to the SMSF sector over three years is certainly significant, amounting to a $322 million reduction in the total savings of SMSF owners.

We are also concerned that the levy may be further increased in the future under the regulations without sufficient justification.

We support ATOs role as the supervisory authority for SMSFs because this role is essentially to ensure SMSF compliance with tax laws and it is administratively efficient for the ATO to conduct the low level of supervision needed for SMSFs.

Need for justification of levy increase

The Explanatory Memorandum and the Second Reading Speech state that the ATO is not currently recovering the full cost of supervising SMSFs and that the increase in the levy will ensure that costs are fully recovered. However, no further justification for a 50% increase in the supervision levy is given.

Taxpayers in general do not pay a fee to the Australian Taxation Office (ATO) to process their tax returns. Nor should SMSFs. The supervisory levy should apply only to the cost of monitoring compliance with the regulatory rules by SMSFs and these costs should be kept low.

The Cooper review of superannuation recommended that regulation and supervision of SMSFs and regulatory intervention be kept to a minimum to keep compliance and administrative costs down. SMSFs do not need the level of prudential regulation necessary for APRA regulated funds because there is no conflict of interest between trustees and beneficiaries, unlike the large pooled funds regulated by APRA where the assets of members are managed in trust. Cooper observed that the members' interests might not always be paramount for the trustees of these funds. No such issue arises for SMSFs.

It is therefore important for the Committee to be satisfied that the ATO's supervisory levy is based only on the cost of necessary supervisory activities and does not include any costs related to the processing of tax returns.

The ATO needs to identify supervisory costs and explain how it distinguishes them from tax administration costs.

Cost Recovery Principles

The Committee should determine whether the ATO supervisory levy is covered by the Government's Cost Recovery Principles, issued in 2005 and now under review. In particular, Principal 7 which states that products and services funded through the budget should not be cost recovered and Principal 11 which requires agencies to produce a Cost Recovery Impact Statement (CRIS) or Regulatory Impact Statement (RIS) and to consult with appropriate stakeholders. To our knowledge, such impact statements have not been provided and we are not aware that consultation with stakeholders has been undertaken.

Timing of levy collection

We question whether the change in the timing of the collection of the levy is necessary when the present system appears to be efficient. Changing the levy timing, about which no practical detail is given, may involve change to existing compliance/reporting systems and procedures employed by accountants. Any costs involved will then be at the expense of SMSF owners. The reason given for changing the date of collection - to align the timing of the collection of supervisory levies from APRA regulated and ATO registered funds - is not supported by any rationale.

We suggest that the ATO should consult with SMSF owners and their service providers on the practical and cost implications of changing the collection timing.

Value for SMSFs

SMSF owners need to see some value in return for the cost of supervision. As pointed out above, the interests of the trustees and beneficiaries of SMSFs are the same so there is little or no prudential value to them. However, the ATO provides objective information on its website for existing and potential SMSF owners. Statistics provided by the ATO are a useful source of information on SMSFs - now the largest sector by assets within the superannuation spectrum. The scope of these statistics might be further developed, for example by providing demographic data about SMSF ownership. We would be pleased to have a conversation with the ATO on these matters.

To conclude, the increased cost of the supervisory levy should be imposed on SMSFs only where it is necessary and justified. We have raised some questions that the Committee may wish to take up with the Government and the ATO.

Yours sincerely

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