

SUBMISSION

Submission to ASIC —
Consultation Paper 335:
*Consumer remediation:
Update to RG 256*

26 February 2021

**The Association of Superannuation
Funds of Australia Limited**
Level 11, 77 Castlereagh Street
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T +61 2 9264 9300
1800 812 798 (outside Sydney)

F 1300 926 484

W www.superannuation.asn.au

ABN 29 002 786 290 CAN 002 786 290

File: 2021/06

Amanda Fairbairn, Policy Lawyer
The Behavioural Unit
Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001

Via email: remediation@asic.gov.au

26 February 2021

Dear Ms Fairbairn

Consultation Paper 335: *Consumer remediation: Update to RG 256*

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to Consultation Paper 335: *Consumer remediation: Update to RG 256*.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$2.9 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 16 million Australians with superannuation.

General comments

Two-tiered approach to initiating a remediation

Tier 2 in CP 335 refers to licensees turning their mind to whether a remediation is warranted when a failure causing loss has breached certain 'standards, expectations and/or values'. ASFA recommends this be amended to 'standards, *reasonable* expectations and/or values' to ensure the expectations are what a reasonable person would expect in similar circumstances.

Remediation money that cannot be returned to consumers

CP 335 proposes that where a licensee is unable to lodge money with an unclaimed money regime, the money should be paid to a charity or not-for-profit registered with the Australian Charities and Not-for Profits Commission. For superannuation funds, an alternative option is for any unpaid money to be instead paid to the ATO so that it can be reunited with the consumer's active superannuation fund account.

Compensation money below \$20

ASFA does not support the removal of the broad low-value compensation threshold of \$20. As the current RG 256 notes, paying compensation to clients can require significant effort on the part of the licensee. Requiring licensees to incur significant compliance and administrative costs in an effort to pay consumers compensation amounts as low as \$1 would not be, in ASFA's view, the best use of resources.

ASFA encourages ASIC to reconsider the removal of a broad low-value compensation threshold or, alternatively, allow superannuation funds to pay low-value remediation amounts to the ATO so that the ATO could reunite these amounts with the consumer's active superannuation account.

If you have any queries or comments in relation to the content of our submission, please contact
on or by email .

Yours sincerely

Deputy Chief Executive Officer and Chief Policy Officer

