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Comments on implementation of Guidance Statement GS 007 on investment management service auditor's reports

TO:

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SELF-MANAGED SUPER FUND
PROFESSIONALS' ASSOCIATION
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Self-Managed Super Fund Professionals'
Association of Australia Limited
(‘SPAA’)

Background

1. SPAA is the peak professional body representing the self managed superannuation fund (SMSF) sector throughout Australia. SPAA was established in April 2003 to advance the professionalism and collaboration of professionals working in the highly complex area of self-managed superannuation and to develop and maintain high standards of advice for trustees and members of SMSFs. In September 2010, SPAA was admitted by the Tax Practitioners Board as a Recognised Tax Agent Association.
2. SPAA is committed to raising industry standards and looking after the needs of SMSF professionals across Australia regardless of their other professional affiliations or membership. SPAA’s core focus is to raise the standard of advice provided by all professionals within the SMSF sector. SPAA has developed an accreditation standard to ensure professionals standards are achieved and maintained by practitioners specialising in the provision of services to the SMSF sector. This is the first standard in Australia to offer independent verification and certification of a practitioner’s competency, independence, experience and knowledge.
3. Subsection 35C(1) of the *Superannuation Industry (Supervision) Act 1993* requires the trustees of a superannuation entities (including SMSFs) to appoint an Approved Auditor and to have the financial accounts and statements of the fund audited annually. It is common practice for SMSF trustees to utilise a service organisation for investment management services and Guidance Statement GS 009 suggests that Approved Auditors of a SMSF which uses a service organisation to obtain the control opinions required by Guidance Statement GS 007. Guidance Statement GS 007 therefore has application to the SMSF sector.
4. This submission addresses some of the matters referred to in the invitation to comment on the implementation of Guidance Statement GS 007 on investment management service auditor’s reports. Comments provided by SPAA are limited to comments on the implementation of GS 007 on investment management service auditor’s reports relevant to the user auditor in their capacity as the Approved Auditor of a SMSF.

Matters for consideration

To what extent are investment management service organisations obtaining service auditor’s reports under GS 007 and to what extent are user auditors requesting those reports?

5. It is a common occurrence for the trustees of a SMSF to access investment services via a Directed Portfolio Service (IDPS) (also commonly referred to as WRAP providers). Although the services provided by an IDPS operator are relevant services for the purposes of GS 007, the operator of an IDPS has a statutory obligation to obtain audit opinions under ASIC Class Order 02/294 and therefore, in our experience, these operators generally do not obtain auditor opinions under GS 007. Similarly, the operators of IDPS-like schemes have a statutory obligation to obtain control reports under ASIC Class Order 02/296 and it is unusual for these operators to obtain auditor opinions under GS 007.

6. Requiring investment management service organisations to obtain auditor's reports under GS 007, in addition to their statutory obligation to obtain audit opinions under ASIC Class orders, is unnecessary as it imposes an additional layer of cost on service organisations. Although GS 009 suggests that Approved Auditors obtain the control opinions required by GS 007, in our experience, these reports are not generally available. In some instances the IDPS providers supply the Class Order audit opinion in place of the GS007 opinions requested. However, this is not always the case.
7. To meet the requirements of the respective ASIC Class Order, an IDPS or a IDPS-like scheme operator is required to obtain the following reports from a registered company auditor on an annual basis:
 - i. An independent audit opinion on the internal controls and other relevant accounting procedures as they relate to the specified annual investor statements; and
 - ii. An independent audit opinion on the specified annual investor statements.
8. Although the above reports are similar in scope to the audit report requirements under GS 007, they are not control reports for the purposes of GS 007.
9. An IDPS is defined in ASIC Class Order 02/294 to mean an investor directed portfolio service, consisting of a number of functions including a custody, settlement and reporting system. A more comprehensive definition of an IDPS and IDPS-like scheme is provided in Appendix A at the back of this submission.

Are service auditor's reports with respect to investment management service organisations providing the audit evidence user auditors require for the audit of user entities' financial reports?

10. SPAA has no comment on the reports under GS 007. SPAA is not aware of any shortcoming with the evidence user auditors require when reports are provided under AISC Class Orders 02/294 and 02/296.

Are the control objectives comprehensive, relevant and clear for each service area? If not, please provide details of any suggested amendments or additional objectives.

11. GS 007 applies to auditors of entities which use service organisations to provide investment management services and which incorporates the services provided by IDPS and IDPS-like schemes. However, the operators of IDPS and IDPS-like schemes have specific audit requirements imposed on them under the Corporations Act and therefore do not generally obtain the controls opinions required by GS 007. Furthermore, GS 009 which applies to auditors of SMSFs, requires Approved Auditors to obtain the control opinions required by GS 007.
12. Understandably there is currently considerable confusion amongst SMSF Approved Auditors over the audit opinions which are required for SMSFs which access investment services via a IDPS or IDPS-like scheme.
13. SPAA believes this issue should be clarified in GS 007. Consideration should be given to identifying and excluding investment management services which are subject to similar statutory reporting obligations of the Corporations Act.
14. In June 2009, SPAA made a formal request to the AUASB that GS 009 be amended to:

- i. clearly reflect the legal obligations imposed on IDPS and IDPS-like schemes by the Corporations Act;
- ii. to promote consistency; and
- iii. remove the confusion which currently exists.

Further Information

We would be pleased to provide you with any further information in support of our comments.

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Appendix A – ASIC Class Order definitions of an IDPS and IDPS-like schemes

“IDPS” means an investor directed portfolio service, consisting of a number of functions including a custody, settlement and reporting system and service with the following features:

- b. The clients of the service have the sole discretion to decide what (but not necessarily when) assets will be acquired or disposed of, except where:
 - i. There are any prior written directions to acquire or dispose of a particular asset in particular circumstances that the client has agreed not to vary; or
 - ii. The client has authorised the operator or another person to give directions on their behalf, for the purpose of the other person receiving or securing payment or moneys owing by the client to the person; and
- c. Subject to any prior contrary directions in order to ensure payment or moneys for which the client is liable, a client may direct the operator to:
 - i. Take reasonable steps to transfer assets to or to the order of the client;
 - ii. Realise assets held on account for the client and either:
 - 1. Pay the proceeds to or to the order of the client; or
 - 2. If the operator and the client agree, hold the proceeds under the IDPS in an account with an Australian ADI designated as a trust account,
Unless the assets cannot be transferred or realised under law or the terms of their issue; and
- d. Except where otherwise mentioned in paragraph (a) or (b), any discretion of the holder of assets held through the service may be exercised only in accordance with the directions from time to time of the relevant client; and
- e. The service is provided in such a way that clients are led to expect, and are likely to receive, benefits in the form of:
 - i. Access to investments that the client could not otherwise access directly; or
 - ii. Cost reductions by using assets contributed by the client or derived directly or indirectly from assets contributed by the client with assets contributed by other clients or derived directly or indirectly from assets contributed by other clients.

“IDPS-like scheme” means a registered managed investment scheme which has a constitution that has provisions to the effect that:

- a. A member may direct that an amount of money corresponding to part or all of the amount invested by the member in the scheme be invested in specified accessible investments; and
- b. The distribution of capital and income from the scheme to the member in relation to their interests in the scheme will be determined by reference to amounts received by the custodian in relation to the assessable investments acquired in accordance with that direction.