



Ref No IER

5 February 2010

Letter to All Trustees
APRA Regulated Superannuation Fund(s)

Dear Trustee

**MANAGING THE RISK OF THE ILLEGAL EARLY RELEASE OF SUPERANNUATION BENEFITS
- Transfers and Rollovers into SMSFs.**

APRA and the ATO have been consulting for some time in relation to their joint concern about the increased prevalence of identity fraud and illegal early release (IER) of superannuation benefits. Although there are various forms of IER, this letter primarily relates to IER involving transfers and rollovers into SMSFs.

In an effort to minimise this form of IER, we are writing to all trustees to provide guidance on additional processes that trustees should consider implementing to assist in verifying the validity of transfer or rollover requests to self-managed superannuation funds (SMSFs).

It is also timely given the recent changes announced by the ATO to the SMSF registration process (enabling sham SMSFs to be identified and prevented from operating) and to Super Fund Lookup (improving compliance transparency through the introduction of a new status of 'Registered - status not determined' for all new SMSFs).

Typically, this form of IER occurs where superannuation benefits held by APRA-regulated funds are illegally accessed under the guise of transfers or rollovers into SMSFs. This passes control of the money from an APRA licensed trustee into the hands of a scheme promoter or participant so that the money can illegally leave the superannuation system via a SMSF. There are two types of IER schemes:

- The fraudulent use of a member's identification by an unrelated party to steal the member's benefits without their knowledge or consent.
- The member participates with a promoter to access the member's benefits. In many cases, the participant ends up with a considerably reduced benefit after 'fees', tax and penalties are deducted.

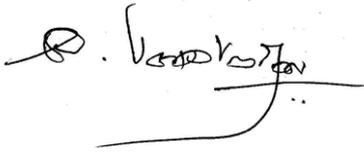
To date, evidence indicates that these schemes prey mostly on people from non-English speaking backgrounds and others who have limited understanding of the superannuation system, and people who are experiencing financial pressures or distress.

The attachment to this letter outlines a number of suggestions that trustees should consider integrating into benefit payment processes that may assist in verifying the validity of transfer/rollover requests to SMSFs and is designed to minimise the risk of Illegal early release and identification (ID) fraud.

These suggestions are generic and do not take into account a trustee's discretion in the carrying out of transfer/rollover requests. They do not prevent trustees from carrying out additional checks or alternative processes that provide an equivalent or greater level of assurance.

Most importantly, these checks do not diminish the responsibility of a trustee to safeguard members' superannuation benefits.

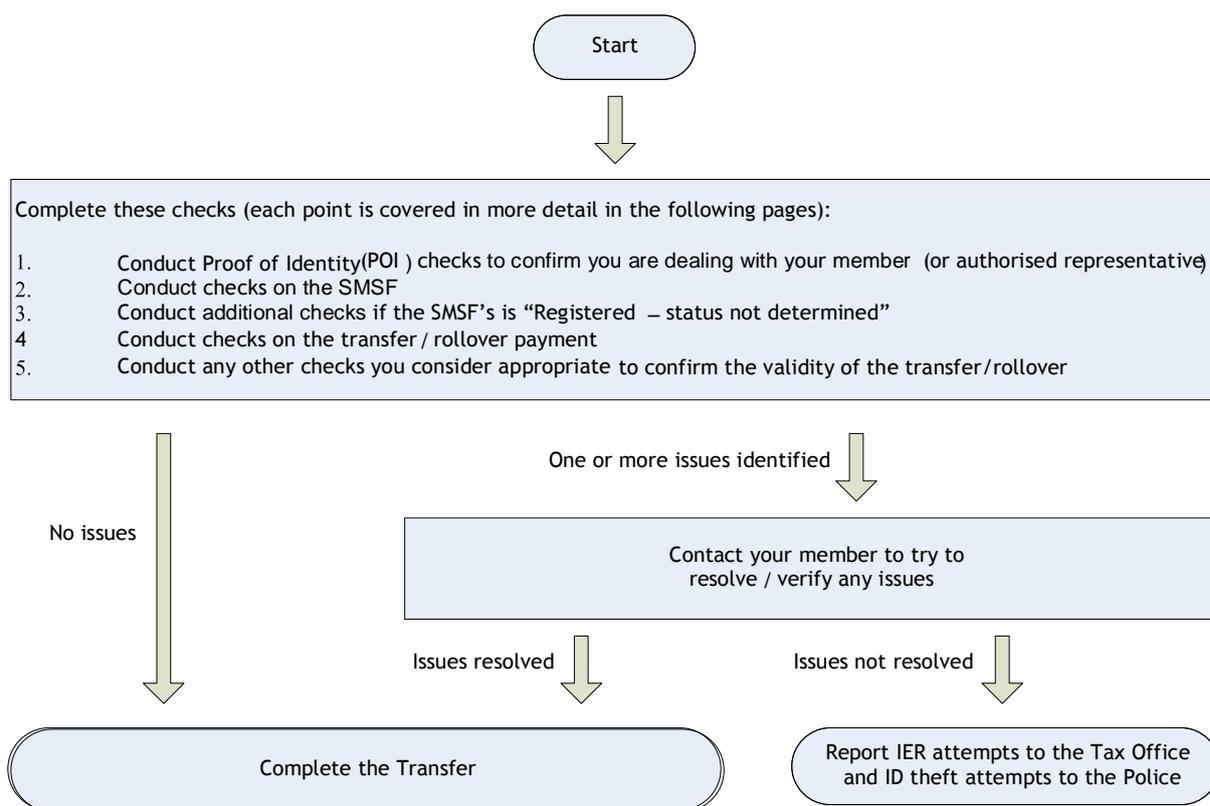
Yours sincerely

A handwritten signature in black ink, appearing to read 'S.G. Venkatramani', written over a horizontal line. The signature is stylized and includes a large flourish at the end.

S.G. Venkatramani
General Manager
Specialised Institutions Division
APRA

ATTACHMENT

Overview of Suggested Process



Trustees (and/or administrators) should consider starting this process as soon as possible after receiving a transfer/rollover request to allow time to resolve issues and/or report concerns if appropriate.

It is advisable to complete the checks for transfer/rollover request for all SMSFs, paying particular attention to transfer/rollover requests for new SMSFs. New SMSFs are displayed in Super Fund Lookup (SFLU) with a status of '**Registered - status not determined**'.

If you do not encounter any issues, the transfer/rollover request can be completed in accordance with normal procedure.

Any issues identified while undertaking the checks should be recorded.

Identification of issues arising from these checks does not automatically mean that the transfer/rollover request is invalid.

Trustee or Fund representatives should attempt to resolve issues by contacting the member concerned where appropriate.

If after this contact you suspect that there is illegal activity being conducted, you should

- contact the Tax Office and AUSTRAC (i.e. a Suspicious Matter Report) [SMR] to report illegal early release of superannuation.
- contact State Police, APRA, AUSTRAC, ASIC and Tax Office in the case of ID fraud.

1. Proof of Identity (POI) checks on your member

The purpose of POI checks is to reduce the risk of ID fraud.

Protecting your fund and your members		
Check	What to look for	What this might mean
Check the member information	Match the member's information with information stored on file: <ul style="list-style-type: none"> • name • member number • date of birth • signature • passwords 	Failure to match the information could identify someone trying to impersonate your member. They might not have all the details or the most recent details provided by your member.
Check for forged documents	Check if the identification documents meet the standards. Refer to the issuing authority (e.g. state transport departments) for guidance on standards and what to look for in identifying fraudulent copies.	If the documents do not meet the standards or they contain indicators of forgeries, the documents could be fraudulent.
	Check for repeated use of numbers where the numbers should be different (e.g. document ID, account number, client ID) in documents.	Someone may be forging documents. These may be copied, resulting in key ID numbers being the same in each copy.
	Check for unusual repeated use of a Justice of the Peace (JP) for transfers / rollover requests from different members.	Someone may be forging documents using a copy of a JP certification.
Check the contact details	Check if the only contact details provided is a PO Box and/or a mobile phone number.	Someone may be trying to hide their identity by providing details which make them harder to trace.

Prevention measures

- Consider limiting the amount of personal information you provide in communications to your member (e.g. on the member statement). Distribution of personal information in this way exposes that information to the risk of being stolen. Stolen information can be used by someone to impersonate your member thereby compromising the integrity of Member POI checks.
- You can refer to Federal and State authorities (e.g. Federal Attorney-General's Department http://www.crimeprevention.gov.au/Identity_Theft/Pages/default.aspx and State police departments) on further strategies to prevent and identify ID fraud.

2. Confirm the SMSF is a regulated SMSF

The purpose of SMSF checks is to verify that the transfer/rollover is to a regulated superannuation fund.

- APRA-regulated funds are permitted to transfer/rollover benefits to an SMSF only if it is a regulated SMSF.
- The status of Regulated SMSFs is listed in [Super Fund Lookup](#) (SFLU) under one of the following :
 - Registered - status not determined
 - Complying
 - Non-complying
- Always check SFLU before making a transfer/rollover to an SMSF.
- It is risky to rely on downloaded or hard copies of the information on SFLU because this information is likely to be outdated very quickly. The Tax Office regularly updates SFLU with the latest information about SMSFs and will investigate and remove a SMSF from SFLU if appropriate.

Protecting your fund and your members		
Check	What to look for	What this might mean
Check that the SMSF is listed on SFLU	Match the name and ABN provided on the transfer/rollover request to the information in SFLU.	<p>Failure to provide matching information may indicate an attempt to use the identity of the SMSF to facilitate a transfer/rollover where there is actually no SMSF.</p> <p>If the fund does not appear on SFLU, it may already have been removed by the Tax Office.</p>
	Check to see if the SMSF has a similar name to an APRA regulated public offer fund (i.e. listed as an ATO regulated fund with a very similar name to an APRA public offer fund).	<p>This may indicate an attempt to ‘pass off’ the SMSF as the public offer fund to increase the confidence in the ‘bona fides’ of the transfer/rollover request and reduce the level of checks undertaken.</p> <p>A different address, mailing details, or banking details could also alert you to a ‘passing off’ attempt.</p>
	Match the address on the transfer/rollover to the address on SFLU.	Different contact addresses may be an indicator that the transfer/rollover is not being made to the SMSF.
Check the SMSF status on SFLU	SMSF has a status of ‘Registered - status not determined’ on SFLU	<p>SMSF has not lodged any SMSF Annual Returns with the Tax Office. This may be because the fund is new.</p> <p>Additional checks must be undertaken before making transfers / rollovers to these SMSFs (see “Additional Checks” below).</p>

3. Complete additional checks for 'Registered - status not determined' SMSFs

It is recommended that additional checks are undertaken for those SMSFs displayed in SFLU with a status of 'Registered - status not determined'.

- Additional checks are regarded as prudent because these funds have generally not been operational for long and have not provided enough information for the Tax Office to determine their compliance status. These funds have not been issued with a Notice of Compliance (NOC). Until an SMSF has been issued with a NOC, it is prudent to undertake additional checks before making any transfer/rollovers to them.

Protecting your fund and your members		
Check	What to look for	What this might mean
Check age of fund	Check if the ABN has been registered/active for more than 2 years.	It is likely that the SMSF has not lodged any SMSF Annual Returns which could mean that it is not operating. Someone may be using an established SMSF as a front for IER activities.
Check the transfer/rollover amount	Check if the amount is less than \$20,000.	Someone may be trying to keep the transfer / rollover amount small to remain undetected.
	If the member is under 25 years of age, check if the amount is less than \$10,000.	Promoters have been known to target younger individuals who may have less understanding of superannuation.
Check for previous transfer/rollover requests.	Check for previous unsuccessful transfer/rollover attempts.	This may indicate a previous IER attempt and the person is trying again.
	Check to see if the member has made 3 or more previous transfer/rollover requests.	This may indicate someone is 'siphoning' off the member's superannuation benefits over a period of time.
	Check if there have been 3 or more payments to the same SMSF or bank account, even where this has been made by more than 1 member.	This may indicate a promoter is using an SMSF for IER where members are passed through the SMSF, or never become a member of the SMSF.

4. Check the payment details

The purpose of checking the transfer/rollover payment is to verify that the payment is valid and is being made to an SMSF.

- IER promoters often seek to ensure payments are made directly to them so that they can take their cut before passing the remainder to the member. Always ensure the payment is made to an SMSF.
- To reduce the risk of a transfer/rollover being paid to an entity that is not a regulated superannuation fund it would be prudent to request a copy of a bank account statement header or bank account establishment confirmation documents as part of the standard documents for the transfer/rollover request. This could be included as requested attachments to the transfer/rollover form developed by your fund, required to ensure the expedient processing of the request.

Protecting your fund and your members		
Checks	What to look for	What this might mean
Check the bank account details.	Check that the name of the SMSF on SFLU matches the name on bank documents.	Failure to match the bank account details may mean that an SMSF does not exist or there is a possible 'passing off' attempt on the SMSF.
Cheque payments	Check the name on the cheque is the name of the SMSF as it appears on SFLU. Cross cheques and add 'account payee only' to your cheque. This means that the cheque can only be paid to a financial institution account and should only be paid into the account of the payee on the cheque.	An IER promoter may seek to have the cheque paid directly so they can take their 'fees' before giving the rest to the member.
	Check the address to send cheque is the same as the contact address on SFLU.	An IER promoter may seek to have the cheque paid directly so they can take their 'fees' before giving the remainder to the member.
EFT payments	Check the EFT details are the bank account details of the SMSF provided on the bank documents.	Failure to match the bank account details may mean that an SMSF does not exist or there is a possible 'passing off' attempt on the SMSF.
	Check the BSB number on EFT is for an Australian bank account.	Someone may be trying to make a payment overseas which is very difficult to recover.
Previous release enquiries.	Check to see if the member has previously made enquiries for release on: <ul style="list-style-type: none"> • financial hardship grounds, and / or • compassionate grounds 	Someone may be seeking to transfer the money into an SMSF where they can access it, having failed to access the money legitimately.

5. Other APRA-regulated fund checks

Trustees should identify, determine and undertake any additional checks which they consider appropriate to verify the validity of a transfer/rollover request, including to other APRA-regulated funds.

Resolving Issues

Note: The identification of issues arising from the abovementioned checks does not automatically mean that the transfer/rollover request is invalid.

There may be valid explanations for some issues that may arise. For example, mismatching information could arise from a simple mistake or may be caused if the member has changed their details without notifying you.

Where issues or concerns are raised in the completion of any of the checks listed in this document, trustees should consider undertaking further activities to try to resolve them.

In general, contacting your member will be the most effective approach in ascertaining the validity of the transfer request. Remember to conduct POI checks before interacting with your member.

Direct contact with your member is preferable, using information stored on your system if possible. This will minimise the need to rely on information in the transfer/rollover request which may have been provided in an identity fraud attempt.

The following methods may help you to contact your member:

- the member's mobile number, home or work telephone
- the member's email address
- writing to your member at their postal address
- checking the White pages for more up-to-date information, and
- the most recent listed employer on your files.

If you suspect the information stored on your file is out-of date or compromised, then you could try contacting your member via details on the transfer/rollover request form. It is especially important to conduct a robust POI check in these circumstances.

You may decide to discuss the transfer/rollover request with your member to verify that the request is valid and they understand their responsibilities as a trustee of an SMSF. You may obtain further details to verify the validity of the request such as:

- A copy of the SMSF's Trust Deed.
- A copy of the New Trustee Letter (which is also sent to new directors of corporate trustees and new trustees of SMSFs).
- A copy of the Trustee Declaration (for new Trustees after 1 July 2007).
- A print-out from the ABR of the SMSF containing membership information.
- Where the member has a Legal Personal Representative, obtain a copy of the appointment instrument/authority to act for the member.

Report issues

If after attempting to resolve the issues you have suspicions of illegal activities, further action may be required. If this is the case, it would be imprudent to process the transfer/rollover request until appropriately satisfied.

Report any unresolved issues to the relevant authority and/or regulator, as detailed below.

a. Report to the Tax Office

Ensure that you report to the Tax Office where you detect an IER attempt or you have any suspicions about a transfer/rollover request to an SMSF. You can contact the Tax Office for further advice or assistance:

- Phone the Tax Office on **13 10 20** between 8:00am and 6:00pm, Monday to Friday.
- Email the ATO at super-IER@ato.gov.au

The Tax Office will investigate suspected IER attempts and if appropriate suspend the SMSF from SFLU and advise you of the outcome.

If you are advised by the Tax Office that they are not suspending the SMSF and there are no other issues, you may continue to process the transfer/rollover request.

Report any previous dealings with IER funds. Email the ATO at super-IER@ato.gov.au for further information on how to obtain a list of IER funds. This information will help the Tax Office to investigate issues, identify and stop IER scheme promoters, and implement better controls to reduce the risk of IER activities.

b. Report to APRA

It is recommended that the APRA Contact Centre is informed of all illegal activity. The APRA Contact Centre will contact your supervisor in order that fund and industry trends can be monitored and managed.

APRA Information Hotline:
1300 13 1060
9am-6pm, Monday-Friday (AEST)

Postal address:
GPO Box 9836,
Sydney NSW 2001

Internet: using the portal contained on [APRA's website](http://www.apra.gov.au) - www.apra.gov.au

c. Report to AUSTRAC

Superannuation funds are reporting entities under the AML/CTF Act and therefore trustees are required to report to AUSTRAC suspicious matters. All identity theft and illegal early release cases should be reported to AUSTRAC in accordance with the legislation.

d. Report to the Police

If a fund becomes aware of an ID fraud attempt this should be reported to the relevant authorities - relevant State Police, APRA, AUSTRAC and ASIC. The fund should also contact any member who has been the victim of an ID fraud and these members should be encouraged to contact the relevant State Police, Tax Office, financial institutions and any other superannuation funds they hold an account with.