Australian Government

FIRST HOME SAVER ACCOUNTS

Outline of proposed arrangements

February 2008

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INTRODUCTION AND CONSULTATION PROCESS

The Government is seeking comments on the implementation of First Home Saver Accounts.

In the 2007 federal election campaign, the Government announced that it would establish First Home Saver Accounts to help aspiring first homebuyers to purchase a first home.

This paper outlines the main features of First Home Saver Accounts and how they would operate.

MAKING COMMENTS

The Government is seeking submissions and comments by 7 March 2008 to assist in settling the final administrative and legislative design features of First Home Saver Accounts.

Comments can be forwarded to the following address:

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The Treasury
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PARKES ACT 2600
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Further copies of this paper can be obtained by writing to the address above or from the website, http://www.homesaver.treasury.gov.au.

CONFIDENTIALITY

All submissions received will be treated as public documents unless the author of the submission clearly indicates the contrary by marking all or part of the submission as 'confidential' prior to the submission being lodged. Public submissions may be published in full on the website, including any personal information of authors and/or other third parties contained in the submission. If your submission contains the personal information of any third party individuals, please indicate on the cover of your submission if they have not consented to the publication of their information.

A request made under the *Freedom of Information Act 1982* for access to a submission marked confidential will be determined in accordance with that Act.

1. BACKGROUND AND OVERVIEW OF THE POLICY

This chapter outlines the background and main design features of First Home Saver Accounts.

1.1 BACKGROUND TO THE POLICY

The financial pressures faced by first homebuyers have increased, with the price of an average home rising more quickly than the average annual wage, and first homebuyers spending a greater proportion of their total income on mortgage repayments than at the beginning of the decade. Housing affordability as measured by the Housing Industry Association is at record lows, with mortgage repayments for the typical first homebuyer now consuming 31.7 per cent of their gross income, compared to 17.9 per cent in 1996.

Home ownership is important to the wellbeing of Australians and saving a deposit is one of the greatest obstacles to buying a first home in Australia. In recognition of this, in the 2007 federal election campaign, the Government announced that it would introduce First Home Saver Accounts. The accounts are the first of their kind in Australia and will provide a simple, tax effective way for Australians to save a deposit for the purchase of their first home through a combination of lower taxes and a Government contribution.

The First Home Saver Account initiative will complement the Government's policies to increase the supply of affordable housing which include the Housing Affordability Fund, the National Rental Affordability Scheme and the release of surplus Commonwealth land.

1.2 OVERVIEW OF FIRST HOME SAVER ACCOUNTS

First Home Saver Accounts will reflect the arrangements for superannuation — allowing first homebuyers to access similar benefits on their first home savings and unlock higher returns.

Since the Government announcement, further consideration has been given to the key features of the accounts and the details have been considerably strengthened and refined to improve equity, reduce administrative and compliance costs and improve accessibility. The main features of the accounts are:

- individuals will need to satisfy eligibility criteria, based around the qualifying criteria for the First Home Owner Grant, in order to establish a First Home Saver Account. These criteria include: being an Australian resident for income taxation purposes; being aged 18 and over and under 65 years; never having previously owned a home in which they have lived; and making an initial individual contribution of $1,000;
  - the First Home Owner Grant will remain in place;
- individual contributions of at least $1,000 in each of four or more years must be made before benefits can be withdrawn;
- there will be an annual post-tax contributions cap of $10,000 (indexed);
- the election policy included an overall individual contributions cap. The Government is inviting comment on the possibility of a $50,000 (indexed) overall cap on individual contributions;
- the accounts will provide a low tax savings environment similar to that which applies to superannuation:
  - savings of up to $5,000 per year (indexed) will be eligible for a Government contribution paid directly into the account;
  - the Government contribution will vary from 15 to 30 per cent of contributions depending on the account holder's marginal income tax rate;
  - there will be a minimum Government contribution of 15 per cent to provide benefits to low- and middle-income earners. Thus, individuals with incomes of up to $80,000 can receive a Government contribution of up to $750;
  - account earnings will be taxed at a statutory tax rate of 15 per cent rather than the individual's marginal income tax rate and withdrawals will be tax free where they are used to purchase a first home or contributed to superannuation;
  - the Government contribution corresponding with the different marginal income tax rates is outlined in the table below;

Individual's marginal income tax rate	Government contribution on post-tax contributions *	Maximum benefit based on $5,000 of individual contributions
0%	15%	$750
15%	15%	$750
30%	15%	$750
40%	25%**	$1,250
45%	30%	$1,500

* The proposed Government contribution is available on up to $5,000 of post-tax contributions.
** Based on 2008-09 tax scales.

- by transferring their account balance into superannuation, individuals may apply to their superannuation fund to access their funds using the superannuation early release provisions of severe financial hardship, compassionate grounds or terminal illness;
- trustees of registrable superannuation entities (RSEs) which hold a public-offer or extended public-offer licence, life insurers, banks, building societies and credit unions will be able to offer the accounts; and
- account balances will be exempt from the social security assets test.

The key changes from the election announcement:

- improve equity by extending Government benefits to low- and middle-income earners;
- provide clearer incentives to save by delivering benefits through a Government contribution paid directly into individual accounts;
- streamline the contribution arrangements through an annual post-tax contributions cap; and
- improve accessibility by widening the range of account providers.

1.3 DELIVERY MECHANISM

First Home Saver Accounts are designed to provide a tax-preferred vehicle to encourage people to save money for a first home.

Like superannuation, First Home Saver Accounts could involve delivery through a salary sacrifice mechanism, allowing people to make deposits at a concessional tax rate.

Notwithstanding the benefits of this system, the government, employers and financial services sector potentially face a series of compliance costs in implementing salary sacrifice arrangements. The requirements would include:

- employers having to separately identify the breakdown of superannuation contributions and First Home Saver Account contributions for each employee and report this information to the superannuation fund; and

- account providers needing to monitor pre-tax and post-tax contributions.

Given the additional administrative processes involved, it would be difficult to work through these issues and meet an implementation date of the second half of 2008, but this option could be developed following the commencement of the proposed arrangements.

Salary sacrifice arrangements may be implemented as an additional delivery mechanism at a later stage. The Government invites comment on this possibility.

1.3 LEGISLATION

The Government intends to introduce a new Act to deal with the establishment, operation and prudential regulation (where this is not covered in other prudential legislation) of the accounts and disclosure requirements in relation to the accounts. The Act will also deal with the payment of the Government contribution.

To implement the taxation treatment, amendments to the taxation laws, in particular, the Income Tax Assessment Acts (primarily the *Income Tax Assessment Act 1997*, the *Income Tax Rates Act 1986* and the *Taxation Administration Act 1953)* will be required.

Similarly, amendments will be required to other legislation to facilitate the creation of the accounts, including the social security law (to address any necessary social security changes).

1.4 Administration of the new Act

The Australian Prudential Regulation Authority (APRA) will be responsible for the prudential regulation of the accounts and their providers. The Commissioner of Taxation will be responsible for administering the Government contribution and tax related matters. The Australian Securities and Investments Commission (ASIC) will be responsible for financial services licensing and disclosure in relation to the accounts and their providers.

1.5 Fiscal impact

The Government has committed $950 million over the next four years to implement First Home Saver Accounts, of which $850 million is the Government contribution and $100 million relates to the concessional tax treatment of earnings. Further detail on the cost is at Appendix A.

2. ACCOUNT PROVIDERS

This chapter identifies the providers able to offer First Home Saver Accounts and outlines the arrangements for the portability of accounts.

Key Points

- Trustees of registrable superannuation entities that hold a public-offer or extended public-offer RSE licence (Public-Offer Licensees) will be able to offer First Home Saver Accounts through a designated trust, subject to being authorised to do so by APRA.
- Life insurers (including friendly societies), banks, building societies and credit unions will be able to offer First Home Saver Accounts under their existing APRA authorisation.
- Account providers will be required to transfer First Home Saver Account balances to another provider within 30 days of receiving a transfer request.

2.1 ACCOUNT PROVIDERS

Public-Offer Licensees, life insurers, banks, building societies, and credit unions will be able to offer First Home Saver Accounts. All of these entities are subject to high levels of prudential regulation by APRA, including in particular minimum capital or approved guarantee requirements.

2.1.1 Public-Offer Licensees

Public-Offer Licensees will be able to offer the accounts. Public-Offer Licensees must be constitutional corporations (trading or financial corporations formed within the Commonwealth) and comply with specific capital and other requirements under legislation and as stipulated by APRA.

Public-Offer Licensees are subject to higher levels of prudential regulation than non-public-offer RSE licensees (including minimum capital requirements). These higher standards of prudential regulation are closer to the standards imposed on all authorised deposit-taking institutions (ADIs) and life insurers and ensure that trustees will be well placed to deal with the operational risk associated with the shorter term nature of the accounts.

First Home Saver Accounts offered by a Public-Offer Licensee must be offered through a trust arrangement which is separate from the licensee's superannuation trust. The trust deed will need to specify the appointment of a trustee and how that trustee will administer the accounts. The trust will be subject to prudential regulation by APRA similar to existing regulation under the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Self-managed superannuation funds

Self-managed superannuation funds will not be able to offer the accounts as these funds are not subject to prudential regulation by APRA.

2.1.2 Life insurers, banks, building societies, and credit unions

Life insurers, banks, building societies, and credit unions will be able to offer the accounts.

Life insurers are registered with APRA to carry on life insurance business in Australia under the *Life Insurance Act 1995*, and are regulated under prudential standards under this legislation. For example, they are required to comply with minimum capital, solvency, risk management and governance standards. Banks, building societies and credit unions are authorised by APRA to carry on banking business in Australia under the *Banking Act 1959* and are regulated by APRA according to prudential standards made under the Act. For example, they are required to adhere to strict capital adequacy, liquidity and governance standards.

First Home Saver Accounts offered by a life insurer would be offered as a life insurance policy (which may be investment-linked). An account offered by a bank, building society or credit union would be offered as a deposit account.

2.2 AUTHORISATION OF ENTITIES

All account providers must be a bank, building society or credit union, an authorised life insurer or a Public-Offer Licensee. Public-Offer Licensees must seek authorisation from APRA to offer these accounts through a designated trust. Banks, building societies, credit unions and life insurers (including friendly societies) will be able to offer the accounts under their existing APRA authorisation.

2.3 PRUDENTIAL REQUIREMENTS

The specific prudential and legislative requirements for account providers will vary depending on the type of provider offering the account and on whether it is offered as a deposit account, as a life policy or under a trust. The proposed prudential requirements are outlined in Chapter 6.

2.4 PORTABILITY OF ACCOUNTS

Portability arrangements will apply to accounts. Account providers will need to transfer an account balance to another provider within 30 days of a request from the account holder. Account providers will need to notify the new provider of account details including (but not limited to) the amount of contributions received for the year, account earnings over the life of the account and the number of years in which contributions of at least $1,000 have been made. They will also be required to notify the Australian Taxation Office (ATO) that the account has been transferred at the end of the year.

Account providers will be required to disclose the account holder’s tax file number (TFN) to the new provider when the account balance is transferred.

A standard form will be introduced to facilitate the transfer of account balances between providers.

Where an individual wishes to open a new account and transfer the balance of their existing account to a new account provider, the new provider will be permitted to open an account. The requirements for opening a new account when transferring balances are discussed in Chapter 3.

These portability processes will apply in the case of a provider ceasing to offer a product. The provider will need to inform the account holder, who can choose another First Home Saver Account provider or contribute the balance of their account to superannuation. In some cases, the new account will be a different account type, for example with a bank rather than a life insurer.

If the account holder cannot be contacted, the provider will transfer the balance into a default First Home Saver Account. This will avoid the creation of legacy products.

The prudential framework will provide for the bulk transfer of assets from an account provider where it ceases to provide products and the account holder has not chosen another provider. For banks, building societies, credit unions and life insurers, arrangements under existing legislation will apply. For Public-Offer Licensees, arrangements will be similar to those applying to superannuation funds under the SIS Act.

3. OPENING AND MAKING CONTRIBUTIONS INTO AN ACCOUNT

This chapter describes the process for opening a First Home Saver Account and outlines the contribution rules. The rules for withdrawals are discussed in Chapter 4.

Key Points

- To open a First Home Saver Account, an applicant must be aged 18 and over and under 65 years of age, be an Australian resident for taxation purposes, never have previously purchased or built a first home in Australia to live in, and make an initial contribution into the account of at least $1,000.
- Individual contributions to a First Home Saver Account will be limited to $10,000 (indexed) per annum. Once a full withdrawal from the account is made, the account will be required to be closed. There will be no partial withdrawals.
- All contributions will be treated as post-tax amounts.
- There will be a Government contribution on up to $5,000 (indexed) of individual contributions annually, which will be paid directly into the account.

3.1 OPENING AN ACCOUNT

3.1.1 Eligibility criteria

A uniform set of criteria will be used to determine an individual's eligibility to open a First Home Saver Account. These criteria will be based around those used by the States and Territories to assess eligibility for the First Home Owner Grant (FHOG). Unlike the FHOG, eligibility to open an account will be determined on an individual basis and will not be affected by the eligibility of an individual's partner. The FHOG arrangements will remain in place.

An applicant must be aged 18 and over and under 65 years and open the account for themselves (where the person is incapacitated, their legal personal representative may open an account for them). They must also be an Australian resident for income taxation purposes.

As the accounts are to be used to assist individuals to save for their first home, the applicant must never have previously purchased or built a first home in Australia to live in (this test is based on the individual and does not take into account whether a current or former partner has previously owned a home).

To ensure the integrity of the $10,000 (indexed) annual contribution limit and to help individuals and the ATO track the accounts, the individual must: provide their tax file number; meet standard proof-of-identity requirements; and confirm that they do not already have, or have previously had, a First Home Saver Account.

A minimum $1,000 upfront contribution will be required. This will reduce administrative inefficiencies for account providers.

The ATO will undertake compliance work to ensure that individuals who open an account are eligible and that only one account is opened per individual. Penalties will apply for breaching the eligibility requirements, including criminal penalties if applicable.

TFN quotation arrangements

To be eligible to open an account, an individual will be required to quote their TFN to the account provider. Individuals who choose not to quote their TFN will not be eligible to open an account.

Other TFN requirements, including the collection, storage and use of TFN information, will be modelled on the current superannuation arrangements.

These TFN quotation arrangements will be critical in ensuring the integrity of the annual individual contribution limit and assist in paying the Government contribution. They are consistent with the requirement under superannuation law to quote a TFN in order to make a post-tax contribution and receive the superannuation co-contribution. The requirements will also assist individuals to keep track of their account.

Individuals who transfer their account to another provider

Where an individual has an account and wishes to move to another provider, the individual will be permitted to hold two accounts temporarily, provided that the transfer to the new account is completed within 30 days of opening it.

Where the transfer is completed within 30 days, the previous account provider will be required to close the account when the balance is transferred. Where the transfer is not completed within 30 days, the new account provider will be required to close the account.

3.2 PROCESS FOR OPENING AN ACCOUNT

3.2.1 Individuals

The application process will be simple, involving the individual applying to an account provider for a First Home Saver Account, by providing information to the provider using a standard application form. The information will be used as proof-of-identity and to confirm the individual's eligibility to open the account.

If the account provider is satisfied that the individual meets the eligibility criteria, the provider may open an account for the individual and contributions can be accepted.

Penalties will apply where an individual has deliberately opened more than one account.

3.2.2 Account providers

Process of opening an account

The process of opening an account for an individual will be simple for account providers to administer.

Before an account is opened, account providers will be required to disclose certain key information to applicants. These disclosure requirements are dealt with in Chapter 6.

Once this information is provided, the account provider will need to request certain information from the applicant to ensure the applicant is eligible to open an account. The information an account provider must request will include: the individual's TFN; standard proof-of-identity documents; and a declaration from the individual that they meet the eligibility criteria outlined at 3.1.1. A new standard form will be introduced to facilitate this process.

Once the account provider is satisfied that it has provided all of the necessary information to the applicant and has received all of the required information from the applicant, it may open an account.

Reporting to the ATO when an account is opened

Once an account has been opened, account providers will be required to report information in electronic form to the ATO. This will allow the ATO to undertake compliance work to ensure that individuals who have opened an account are eligible. Anti-money laundering and counter-terrorism financing requirements will also need to be met.

Account providers will be required to provide the ATO with the account holder's details including their TFN, full name, date of birth and address, as well as certain account details including the account number and the date the account was opened.

Account providers will need to provide this information to the ATO as soon as possible after opening an account, and in any event, within 30 days.

3.3 CONTRIBUTIONS

3.3.1 Contribution rules

Who can make a contribution

There will be no restrictions on who can make a contribution into an account. As with other payroll deductions, an employer will be able to remit post-tax contributions on behalf of an employee to an account.

The account provider will request basic identifying information from the contributor to enable excess contributions to be returned (see 3.3.2).

Contribution limit

Contributions to an account will be limited to $10,000 (indexed) per annum (this excludes the Government contribution and account earnings). The election policy included an overall contributions cap. The Government is inviting comment on the possibility of a $50,000 (indexed) overall cap.

The account provider will not be able to accept contributions if the contributions cause a breach of the annual $10,000 (indexed) contribution limit. The $10,000 limit will be maintained at double the $5,000 Government contribution threshold which will be indexed to Average Weekly Ordinary Time Earnings in $500 increments.

Type of contributions

To simplify the operation of the accounts and reduce the overall administrative and compliance burden, all contributions will be post-tax amounts.

Minimum contributions

A minimum $1,000 contribution will be required to open an account.

There will be no requirement for minimum annual contributions. However, amounts may only be withdrawn where contributions of at least $1,000 have been made in each of at least four years. The rules for withdrawals are discussed in Chapter 4.

This will ensure that accounts are used by individuals committed to saving.

Additional contribution rules

Account providers will be free to set contribution limits on their products independently to minimise the administrative costs associated with small account balances.

3.3.2 Account providers accepting contributions

Acceptance of contributions

Where individual contributions are inadvertently received in breach of the limit, the account provider will be required to return the excess to the contributor within 28 days of receipt. The account provider will also be required to notify the account holder. Penalties will apply to the account provider if they fail to do so. There will be no penalty on the individual contributor or account holder.

Account providers will not be able to accept individual contributions once: the balance of an account is withdrawn to buy or build a first home; the account holder reaches age 65; or the balance is contributed to superannuation as the account will be required to be closed. The closure of accounts is discussed in Chapter 4.

Reporting of annual contributions

Account providers will be required to report annually to the ATO on the amount of contributions made to each account.

4. WITHDRAWALS

This chapter describes when and how amounts can be withdrawn from a First Home Saver Account.

Key Points

- Withdrawals will be permitted for the purposes of purchasing or building a first home to live in. The full amount will need to be withdrawn and the First Home Saver Account closed.
- Typically, amounts will only be allowed to be withdrawn where contributions of at least $1,000 have been made in each of at least four years.
- By transferring the balance into superannuation, individuals will be able to access the superannuation early release provisions of severe financial hardship, compassionate grounds or terminal illness.
- The full amount can be contributed to superannuation at any time and the account closed.
- First Home Saver Accounts will be required to be closed and the account balance transferred into superannuation within 30 days after reaching age 65.

4.1 Withdrawals for purchasing or building a first home

First Home Saver Accounts are intended to encourage saving for either a first home or for retirement. Thus, withdrawals will be permitted for the purpose of purchasing or building a first home for the account holder to live in. Where an account holder requests a withdrawal for this purpose, they will be required to withdraw the full amount in their First Home Saver Account and the account will be closed. The account holder will not be able to open further accounts.

If the account holder does not purchase a first home, then the balance of the account will be transferred into superannuation.

4.1.1 Process

Account holders will need to lodge an application for withdrawal with their account provider. The Government will introduce a standard form to facilitate the withdrawal of funds.

Funds need to be withdrawn before the sale or contract to build a first home is finalised. Amounts cannot be withdrawn for a first home that has already been purchased or built by the account holder. If the account provider is satisfied that the applicant meets the eligibility criteria, the payment can be made to the account holder or as directed by the account holder.

If it is subsequently determined that the account holder incorrectly certified as to their eligibility for withdrawal, or that the account holder did not meet the conditions regarding occupancy and use of the home that apply (see 4.1.2 below), then the account holder will be liable to repay the Government contribution and penalties, including criminal penalties if applicable, will apply.

4.1.2 Determining eligibility for withdrawals

An account holder will be eligible to withdraw funds from their account for purchasing or building a first home where the account holder meets the eligibility criteria set out below.

- Contributions of at least $1,000 must have been made into the account in each of four or more years. The four-year qualifying period starts from the financial year in which the account was opened.

- If the provider is advised that the account holder is purchasing a first home with another individual (or individuals), the account provider may release the balance even if the four-year condition has not been met if they are satisfied the other individual(s) meets that condition in respect of their own account. Processes will need to be developed to allow providers to transfer this information.

- The withdrawal must be for the purpose of making a payment directly necessary to purchase a first home. This will include the payment of a deposit and, in the case of the building of a first home, payment due on signing of the contract to build. Where the withdrawal is for the purchase of land only, it must be a condition of the land purchase that a building contract be entered into within six months.

- The account holder must not have previously bought or built a first home to live in (they will still be eligible if they have previously purchased an investment property or block of land).

- The home is, or will be, located in Australia and will be a new or established house, home unit, flat or other type of self-contained dwelling that lawfully can be used as a place of residence.

These standard criteria will apply to all individuals regardless of the State or Territory in which they reside.

If the account holder has previously contributed to the mortgage of a home they will still be eligible, provided they were not listed as an owner on the property title.

Where an individual was a resident for taxation purposes when they opened their account, but subsequently became a non-resident, they will not be required to close their account. Individual contributions will be permitted while they are a non-resident, however they will not be eligible for a Government contribution during this time. The individual will be eligible for a Government contribution when they again become a resident for taxation purposes.

An individual will not need to be a resident when they withdraw funds from their account. It is open, therefore, for an individual to purchase a first home in Australia while they are non-resident with the intention of returning to Australia to reside in the home.

Conditions relating to use of the home

There will also be conditions for occupation of the home, ensuring that the purchase is for the purpose of a home for the account holder to live in and not for other purposes, such as an investment property.

The account holder will be required to live in the home for a continuous period of 6 months commencing within 12 months of settlement or completion of construction. This will ensure that those individuals accessing their accounts reside in Australia after buying the house.

If these conditions are not satisfied, the account holder will be liable to repay any Government contributions, and penalties, including criminal penalties if applicable, will apply. However, a refund of Government contributions or other penalties may not apply in certain circumstances (for example, if the home was not occupied due to extenuating circumstances such as divorce or military deployment overseas).

Use of money

Funds will be released from an account to assist in the purchase of an eligible first home, including payment of the deposit, stamp duty, legal fees and other settlement monies.

Auctions

In consultation with industry, the Government will consider ways in which auction arrangements can be accommodated to address any delay in being able to access funds from an individual's account.

4.2 TRANSFER TO SUPERANNUATION

The Government recognises that the circumstances of an account holder may change over the life of the account. As such, individuals will be allowed to contribute the balance of their account to superannuation at any time. The entire balance will be required to be contributed, and the account will then be closed, meaning individuals who do so will not be eligible to open another account.

Where amounts are contributed to superannuation, they will be assessed against the non-concessional contributions cap.

The non-concessional contributions cap limits the amount of non-concessional contributions a person can make (or receive) in superannuation to $150,000 per year. To accommodate larger payments, people under age 65 are allowed to bring forward future entitlements of two years worth of contributions. This means a person under age 65 is able to contribute $450,000 over three financial years without exceeding their non-concessional contributions cap.

Individuals will not be eligible to receive the superannuation co-contribution on amounts contributed to superannuation from a First Home Saver Account.

Amounts contributed to superannuation will be preserved in the fund until a condition of release has been met. These conditions are subject to the governing rules of the fund and may include retirement, financial hardship, compassionate grounds or terminal illness.

4.2.1 Early release provisions

By contributing the balance of their First Home Saver Account to superannuation, individuals may apply to the superannuation fund to access their funds in cases of severe financial hardship and terminal illness, and on compassionate grounds, under the superannuation early release provisions. This application will be subject to the governing rules of the fund.

In order to do so, the individual must close their First Home Saver Account.

4.2.2 Reaching age 60

An individual who has an account at age 60 will be able to contribute their account balance to superannuation and then access their funds tax free in accordance with the payment of superannuation benefits. This provides consistent treatment with the taxation of superannuation from age 60 for most individuals.

4.3 FRAUDULENT CLAIMS

Where a fraudulent withdrawal has been made or where the ATO has closed an account because the individual is ineligible to hold an account, the account holder will be liable to repay any Government contributions received and penalties, including criminal penalties if applicable, will apply.

4.4 CLOSING OF ACCOUNTS

Any withdrawal or contribution to superannuation will be required to be the full amount of the account balance and the account will be required to be closed. The account provider will need to report the closure to the ATO and the account holder.

In some circumstances, the ATO may direct the account provider to make an account inactive or to close an account. This could occur where the ATO has identified that the account holder was ineligible to open an account. Where an account is closed in such circumstances, the account holder will be liable to repay any Government contributions received and penalties, including criminal penalties if applicable, will apply.

4.4.1 Reaching age 65

The account will be required to be closed and the balance transferred into superannuation within 30 days after reaching age 65. After age 65, individuals are required to satisfy a work test before contributing money to superannuation. The work test will be suspended for 30 days after an individual reaches age 65 to allow this.

4.4.2 Ceasing to be eligible for an account

Where an individual’s eligibility for the account changes, the individual will need to inform their account provider, roll their balance into superannuation and close the account. Penalties will apply if the account provider is not informed within 30 days of the change in eligibility.

4.5 OTHER CIRCUMSTANCES

4.5.1 Death

If the account holder dies, the account balance will be transferred into superannuation and treated as part of the superannuation benefit.

4.5.2 Bankruptcy

In the event of the bankruptcy of an individual with a First Home Saver Account, the balance will be treated in the same way as if they had been saved in an ordinary savings account.

4.5.3 Relationship breakdown

In the event of a relationship breakdown, the account will be treated in the same way as superannuation.

5. GOVERNMENT CONTRIBUTION AND TAXATION TREATMENT

This chapter describes the Government contribution to be paid to First Home Saver Accounts. It also outlines the taxation of individual and Government contributions made to First Home Saver Accounts and the earnings.

Key Points

- The Government will pay a contribution to a First Home Saver Account where contributions are made to the account during the financial year and the individual lodges a tax return. For individuals who are not required to lodge an income tax return, separate administrative arrangements will be developed to facilitate payment.
- The Government contribution will be applied to up to $5,000 of individual contributions made annually. It will be at least 15 per cent but range up to 30 per cent of contributions, depending on the individual's marginal income tax rate.
- Contributions made into First Home Saver Accounts will not be taxed.
- Earnings on First Home Saver Accounts will be taxed at the statutory rate of 15 per cent rather than the individual's marginal income tax rate.
- Withdrawals to purchase a first home will not be taxed.

First Home Saver Accounts will provide a low tax savings environment similar to that applying to superannuation. They will provide a simple, tax effective way for Australians to save for the purchase of their first home through a combination of lower taxes and a Government contribution.

5.1 GOVERNMENT CONTRIBUTION

Savings of up to $5,000 per year (indexed) will be eligible for the Government contribution which will be paid directly into the account. It will be at least 15 per cent, increasing to 30 per cent depending on the marginal income tax rate of the account holder.

- Where the individual does not pay tax or is subject to the 15 per cent marginal income tax rate, a minimum Government contribution of 15 per cent will be payable.

The Government contribution will directly increase the account balance and enable greater earnings to accrue.

5.1.1 Entitlement to the Government contribution

For an account to qualify for the Government contribution it must be provided by an authorised entity (as outlined in Chapter 2) and the account holder must have satisfied the eligibility requirements when they opened the account (as outlined in Chapter 3).

In addition, to qualify for the Government contribution, a contribution must have been made into the account during the financial year. The individual must also be eligible to have had an account when a contribution is made. No minimum individual contribution will be required (except to open the account).

5.1.2 Amount of the contribution

The Government contribution will be applied to up to $5,000 of individual contributions into an account in a financial year. The amount of the contribution will be based on an individual's marginal income tax rate.

The calculation of the contribution is designed to provide a similar outcome to the salary sacrifice arrangements which were originally proposed. However, it will be simpler to administer and provide greater benefits to low-income earners, as individuals with a marginal income tax rate of zero or 15 per cent, who may not benefit from salary sacrifice, will be eligible to receive a Government contribution. For example, an individual with a taxable income of $25,000 in the 2008-09 year who made individual contributions of $5,000 would receive a Government contribution of $750.

The rates for the Government contribution will be as follows:

Government contribution percentage

Marginal income tax rate	Percentage contribution on up to $5,000 of contributions
0, 15 or 30%	15%
40%	25%*
45%	30%

* Based on 2008-09 tax scales.

For the 2008-09 financial year, the Government contribution payable into an account to which at least $5,000 has been contributed will be:

Maximum annual Government contribution

Taxable income range	Maximum benefit payable
$0–$80,000	$750
$80,001–$180,000	$1,250
$180,001+	$1,500

* Based on 2008-09 tax scales.

Where an individual's taxable income exceeds a relevant rate threshold by less than the amount of the contribution on which the Government benefit is calculated, the benefit will be calculated by apportioning the amount of those contributions across the applicable rates. This will produce an outcome similar to that which would have resulted under salary sacrifice arrangements. For example, an individual with taxable income of $81,000 in the 2008-09 year who made contributions of $5,000 to an account would receive a Government contribution of $850, made up of 25 per cent on $1,000 (the amount by which taxable income exceeds the $80,000 tax threshold) and 15 per cent on the remaining $4,000.

5.1.3 Rounding of the contribution

The minimum Government contribution will be rounded up to $20 as long as the eligibility requirements are satisfied during the income year.

5.1.4 Payment of the contribution

The Government contribution will be administered by the ATO and paid directly into an individual's account. It will not count towards the $10,000 annual individual contribution limit.

An individual will not need to apply for the Government contribution. The ATO will use individual contribution and account details provided by account providers, together with the income details from an individual's income tax return, to assess and pay the Government contribution. Once this information is received, the ATO will pay the Government contribution as soon as practicable after the end of the financial year. These arrangements are designed to be consistent with the laws concerning the superannuation co-contribution.

For individuals who are not required to lodge an income tax return, the ATO will develop separate administrative arrangements to facilitate payment of the Government contribution.

Incorrect payment of the contribution

Where the Government contribution paid is less than the amount to which an individual is entitled (for example, where the individual's income tax assessment is amended), the ATO will pay the additional amount directly into the account. Interest will be payable.

Where the Government contribution paid is more than the amount to which an individual is entitled, the ATO will be able to recover the amount overpaid. Interest will be payable to the Commissioner of Taxation.

Direct payment of the contribution

Where an individual no longer has an account, because they have already withdrawn the balance to purchase a first home, the Government contribution can be paid to the individual directly.

5.2 TAXATION

5.2.1 Taxation of contributions

Individual contributions into an account will not be taxed as they will be made from post-tax income. The Government contribution will also not be taxed.

5.2.2 Taxation of earnings

Earnings accrued in an account will be included in the assessable income of the account provider and taxed at a statutory rate of 15 per cent (rather than an individual's marginal income tax rate), taking into account deductions, tax offsets such as refundable imputation credits, or a capital gains tax discount. These taxation arrangements are consistent with those for earnings within a superannuation fund or retirement savings account.

For taxation purposes, First Home Saver Account activities will need to be segregated from the other activities of the account provider. Banks, building societies and credit unions will need to segregate First Home Saver Account activities from general banking business for taxation purposes. Similarly, life insurers will need to segregate their First Home Saver Account activities from their ordinary business. For Public-Offer Licensees, these will already be segregated, as the trust which operates the First Home Saver Account will be separate from any superannuation funds for which the licensee is trustee.

5.2.3 Taxation of withdrawals

Funds withdrawn from an account to purchase a first home will be tax free.

6. OTHER REGULATORY ISSUES

This chapter outlines a range of other regulatory issues associated with the provision of First Home Saver Accounts, including prudential regulatory requirements, licensing requirements and disclosure obligations.

Key Points

- New prudential requirements will be needed to accommodate First Home Saver Accounts provided by Public-Offer Licensees under a separate trust structure from their superannuation operations.
- There will need to be limits on the investment strategies associated with accounts offered by Public-Offer Licensees and life insurers, requiring the investments to be appropriate for the nature of the accounts.
- The Government proposes to develop a simplified disclosure regime for First Home Saver Accounts. Fees charged on the accounts will be transparent, simple and kept to a minimum.

6.1 PRUDENTIAL REGULATION REQUIREMENTS

New prudential requirements will be needed to accommodate First Home Saver Accounts provided by Public-Offer Licensees under a separate trust structure from their superannuation operations. Life insurers (including friendly societies), banks, building societies and credit unions will be able to offer accounts under the existing prudential frameworks applying to these institutions. Where necessary, APRA will also develop prudential standards governing the operation of the accounts by providers. These standards will also apply to accounts provided by Public-Offer Trustees to ensure consistency in regulation across all account providers. APRA will consult separately on the development of the standards.

These standards will not apply to Public-Offer Trustees' superannuation operations, which will continue to be regulated by the SIS Act and operating standards contained in the SIS Regulations in the existing manner.

From a prudential perspective, accounts that are offered by banks, building societies and credit unions as capital-guaranteed deposit products carry different risks to those that are offered by Public-Offer Trustees and life insurers on an investment-linked basis. In the case of investment-linked products, the four-year savings horizon and the limited purposes for which the savings can be used provide some constraints on when withdrawals will be made. However, it will still be difficult for account providers to be able to predict withdrawal patterns. In addition, the accounts are likely to be much shorter term investment products than superannuation or most investment-linked life insurance policies.

Given these differences, there will need to be some limits on the investment strategies associated with accounts offered by Public-Offer Licensees and life insurers, requiring the investments to be appropriate for the nature of the accounts and to consider liquidity requirements. In addition, there may be some asset classes that are not appropriate investments given the nature of the accounts. These requirements will be detailed, where appropriate, in APRA's prudential standards governing the operation of the accounts. These requirements will also have implications for the choice of investment strategies offered to account holders under investment-linked accounts offered by Public-Offer Licensees and life insurers.

Accounts offered by Public-Offer Licensees will be subject to borrowing restrictions in the same way as superannuation funds under the SIS Act.

Other restrictions on superannuation fund investments which currently apply under the SIS Act will also apply in respect of the accounts offered by Public-Offer Licensees.

Life insurers, banks, building societies, and credit unions offering the accounts will need to ensure the accounts are operated in accordance with all existing laws and regulations governing life policies and deposit accounts.

6.2 FINANCIAL SERVICES LICENSING REQUIREMENTS

The accounts will meet the definition of a 'financial product' under the *Corporations Act 2001*. If necessary, amendments will be made to ensure this. Consequently, the licensing and conduct provisions of the Corporations Act will apply.

Account providers will generally be required to hold an Australian Financial Services Licence (AFSL) under the Corporations Act to offer and provide advice on the accounts, subject to the exemptions in that Act. This is consistent with the current treatment of other financial products, including superannuation products provided by public-offer entities under the licensing provisions. Where an account provider already holds an AFSL, the licensee conditions may need to be adjusted to enable the licence holder to provide the financial service.

6.2.1 Dispute resolution arrangements

As the First Home Saver Accounts will be a 'financial product', providers of the accounts will be required to be members of an external dispute resolution scheme that is approved by ASIC under requirements in the Corporations Act. The Superannuation Complaints Tribunal will not deal with complaints in relation to the accounts.

6.3 DISCLOSURE OBLIGATIONS

6.3.1 To account holders

Account providers will need to provide retail clients with a Financial Services Guide and, if they are providing personal advice, a Statement of Advice.

Account providers will be required to disclose certain key information to the applicant before an account is opened, such as the risks, benefits, fees and dispute resolution procedures associated with the product and types of investment options on offer (where relevant).

The Government proposes to develop a simplified disclosure regime for the accounts. The extent of disclosure may differ somewhat depending on the nature of the product. The precise content and presentation of the disclosure document will be subject to further consideration.

The Government will work with industry to ensure that fees charged on the accounts are transparent, simple and kept to a minimum.

Account providers will also be required to provide account holders with an annual statement containing information such as the account balance, increase in contributions and return on investment, similar to an annual statement that is provided on an investor's superannuation account.

6.3.2 Reporting to the regulator

Under the *Financial Sector (Collection of Data) Act 2001*, providers of First Home Saver Accounts will be required to report certain information to APRA in respect of the accounts. APRA will modify its existing reporting standards for ADIs and life insurers, and create a new reporting standard for First Home Saver Accounts offered by Public-Offer Licensees, in order to facilitate the necessary reporting. APRA will consult with industry on the new reporting standards.

6.4 OTHER PROTECTION FOR ACCOUNT HOLDERS

Accounts offered by a life insurer would be referable to a statutory fund established under the *Life Insurance Act 1995*. Statutory funds' assets may only be used for the expenses and liabilities incurred by the business of the fund, which provides protection to policyholders.

Where an account is offered by a bank, building society or credit union as a deposit product, the account holder will receive protection from the depositor preference provisions in the *Banking Act 1959*. For accounts offered by Public-Offer Licensees, there will be arrangements, modelled on the financial assistance provisions in the SIS Act, to enable trustees to apply for financial assistance for losses suffered as a result of fraudulent conduct or theft.

Account providers will be required to ensure that fees charged on small balances do not exceed investment earnings in any given year — these provisions will be modelled on the 'member protection' rules that protect small superannuation balances from being eroded by fees and charges. The member protection rules apply to balances less than $1,000. As the accounts must be opened with a minimum amount of $1,000, it will be necessary to align the member protection balance for First Home Saver Accounts to the minimum opening contribution balance of $1,000.

6.5 ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING

Providers of First Home Saver Accounts will be required to comply with the requirements in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and identify customers upon opening an account. Key obligations in the AML/CTF Act include:

- verifying a customer's identity before providing a designated service to the customer;
- reporting suspicious matters, and certain transactions above a threshold to AUSTRAC;
- reporting certain international funds transfer instructions to AUSTRAC;
- keeping records relating to customer identification and specified transactions; and
- ensuring that electronic funds transfer instructions include certain information about the origin of the transferred funds.

In relation to Public-Offer Licensees, the current AML/CTF obligations require that they identify a customer when a member's superannuation funds are cashed out or their pension commences. Upfront customer identification in relation to First Home Saver Accounts will therefore differ from the current obligations applying to superannuation trustees. As account providers will be receiving information from individuals to open accounts, it is not expected that the upfront customer identification requirements under the AML/CTF Act will impose significant additional obligations.

APPENDIX A: FISCAL IMPACT

The cost of the First Home Saver Accounts is estimated to be $625 million over four years on a cash basis and $950 million over four years on a fiscal balance basis (the Government contribution costs $850 million and the concessional tax treatment of earnings costs $100 million). These costs exclude departmental administration costs.

Costing for first home saver accounts	2008-09	2009-10	2010-11	2011-12	Total
Government contribution	-100	-175	-250	-325	-850
Concessional tax treatment of earnings	-5	-15	-30	-50	-100
Total cost — fiscal balance basis	**-105**	**-190**	**-280**	**-375**	**-950**
Total cost — cash basis	**-5**	**-115**	**-205**	**-300**	**-625**

The variation between the cost of the policy on a cash basis and fiscal balance basis is due to a timing difference.

When benefits are delivered through a Government contribution, the cash cost is deferred to 2009-10, as the Government contribution is paid in arrears after individuals have lodged their income tax return. However, on a fiscal balance basis, the full cost of the policy is accounted for in 2008-09, the financial year in which individuals contribute to their accounts. Accordingly, the cost on a cash basis is deferred by one year relative to the cost on a fiscal balance basis.

Glossary

Authorised deposit-taking institution (ADI)

Authorised deposit-taking institutions (ADIs) are corporations which are authorised under the *Banking Act 1959*. ADIs include banks, building societies and credit unions.

Constitutional corporation

A constitutional corporation is a trading or financial corporation (within the meaning of paragraph 51(xx) of the Constitution) formed within the limits of the Commonwealth.

Public-offer superannuation fund

A public-offer superannuation fund is described by the *Superannuation Industry (Supervision) Act 1993* as a superannuation entity that offers superannuation interests to the public, usually on a commercial basis. This type of fund is:

- a regulated superannuation fund that is not a standard employer-sponsored fund;
- a standard employer-sponsored fund that has some non-standard employer-sponsored members;
- a standard employer-sponsored fund which has elected to become a public-offer fund; or
- a superannuation fund which APRA has declared to be a public- offer fund.

Registrable superannuation entity (RSE)

An RSE is a regulated superannuation fund, an approved deposit fund or a pooled superannuation trust. It does not include self-managed superannuation funds.