

To: Irvine, Jill  
Subject: TFN Issues

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From: MARK HANCOCK [mailto:MXH@finlaysons.com.au]  
Sent: 17 August 2001 5:41 PM

Subject: TFN Issues

I have discussed the TFN issues with some clients and their general concerns are:

#### The Penalty Provisions

Many of the penalty provisions seem to be excessive. For example, section 299G of the SIS Act provides for a penalty of \$11,000 for an individual trustee and \$55,000 for a corporate trustee if they fail to request a new member's TFN within 30 days of the new member joining the fund. Smaller penalties (half of these) may be imposed if the trustee is charged with a strict liability offence under s 299G(4A) (as such, recklessness or intent do not have to be proven by the prosecutor). This is an extraordinary penalty considering that s 299G(5) provides that the new member is not even obliged to provide their TFN. While I suspect that no-one has ever been prosecuted under any of the TFN provisions contained in the SIS Act, it is a matter of concern that such offences, where the punishment does not seem to fit the crime, can be imposed for what many regard as a technical or administrative error.

#### The Complexity of the Disclosure Requirements

Section 299G(1) of the SIS Act requires trustees to request new member's TFNs in a manner approved by the Regulator. These requirements add to the complexity of the new member information and application brochures add to the confusion of fund members so that many members fail to read or understand the information provided. Many funds currently attempt to present the information in as attractive a format as possible. However, it may only be a matter of time before these efforts (and the associated costs) are replaced by the black & white, no frills style of information provision used by the Banks to explain to customers the terms and conditions of their bank accounts & credit cards.

#### Administrative Complexity

I understand that fund administrators incur significant expense ensuring that TFNs are stored in accordance with the legislative requirements.

Please call me if you wish to discuss any aspect of this e-mail.

Regards

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