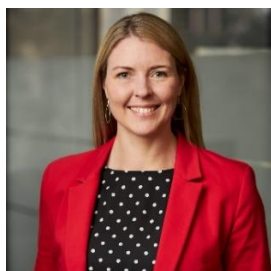


Lost Members and Unclaimed Monies

Compliance and member retention opportunities



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Lost Member and Unclaimed Money processing has formed part of a superannuation trustee's administration and reporting obligations for many years, but its evolution in recent years has created a raft of complexity and uncertainty for superannuation trustees and administration service providers.

Not only are there significant penalties for non-compliance, but the unprepared trustee risks losing members if not adequately equipped to proactively engage with and retain their member.

In this article, we summarise the main requirements and identify some key considerations for superannuation trustees when managing and retaining their Lost and Unclaimed members.

The importance of Lost Member and Unclaimed Money processing

Lost Member and Unclaimed Money processing requires superannuation trustees to identify members who meet specific criteria and either report or transfer the member account balances to the Australian Taxation Office (ATO) twice per year. The underlying intent of each regime is to provide the opportunity for members to be reunited with their superannuation in situations where there is a risk this may not otherwise occur.

However, legislative reform over recent years has given Lost Member and Unclaimed Money regime a makeover, adding new categories of membership that are now required to be transferred to the ATO. There are now a complex array of rules for superannuation trustees to abide by, and our experience in managing these processes shows this is not well understood by superannuation trustees or administrators.

Just this week, the ATO released data confirming \$16 billion is held in Lost and Unclaimed superannuation across both the ATO and superannuation trustees which is a \$2.1 billion increase from last financial year alone. Of this, \$10.1 billion still sitting with superannuation trustees and is at risk of being swept to the ATO as Unclaimed Money should trustees not take immediate action to reunite their members with their own superannuation.¹

Whilst significant penalties alone provide a sufficient deterrent from non-compliance, it is ultimately the member who is impacted through not having visibility or access to their superannuation entitlement earned over their working years. It is the responsibility of trustees to ensure all staff have a thorough understanding of these obligations and are undertaking these requirements with the members front of mind.

¹ Australian Taxation Office, *Total lost (fund-held) and ATO-held super* (27 February 2023) <https://www.ato.gov.au/about-ato/research-and-statistics/in-detail/super-statistics/super-accounts-data/multiple-super-accounts-data/?page=2>.



An important takeaway from this article is that the **Lost Member and Unclaimed Money regimes are largely independent from each other**, and while there is some minor cross-over, there is a **risk in conflating the two regimes** and thus not accurately assessing a member's status.

Lost Members

There are two prescribed categories of Lost members as set out below. These are members at risk of the trustee not being able to contact or identify the member to ensure a benefit may be paid when required.

Lost members are reported to the ATO for publishing on the ATO's Lost Member Register (LMR). This is published on MyGov to provide the member visibility when reviewing their superannuation accounts or will populate when searching for their Lost Super.



Lost Uncontactable

- One or more unsuccessful attempts to contact the member
- No contact, contributions or online activity by the member for 12 months
- The member has not explicitly requested to remain a member of the fund (is not '*permanently excluded*')



Lost Inactive

- Member joined the fund more than 2 years prior as a standard employer-sponsored member
- No contribution or rollover received for 12 months
- Member has not indicated by a '*positive act*' they wish to remain a member or explicitly requested to do so (is not '*permanently excluded*')

Importantly, **superannuation trustees only report the Lost member details to the ATO**, but the account balance remains with the fund and the account has a 'Lost' status applied.

Unclaimed Money

There are 8 categories of Unclaimed Money which may result in a superannuation member's balance being paid to the ATO. A high-level summary of each category is set out below, however it is important to recognise the specific criteria underpinning each category is detailed, nuanced and prescribed within legislation.



Over Eligibility Age (65+)

Member reached age 65, no contact with fund in 5 years, no contributions for 2 years



Small Lost Member

Member meets Lost criteria and account balance less than \$6,000



Non-Member Spouse

Non-member spouse (NMS) eligible for family law payment split but cannot be located



Inactive Unidentifiable Lost Member

Member meets Lost criteria, no contributions for 12 months and trustee cannot confirm identity

**Deceased**

Member is deceased, no contributions for 2 years, cannot locate or confirm beneficiaries

**Inactive Low Balance Account (ILBA)**

No contributions for 16 months, account balance less than \$6,000, no insurance or other prescribed activity

**Former Temporary Resident**

Member is a former temporary resident and 6 months passed since visa ceased or left the country

**Voluntary Transfer**

Trustee holds amount for member but believes a balance transfer to the ATO is in best interests of member.

Importantly, **superannuation trustees must close Unclaimed Money accounts and transfer the balance to the ATO.** The member will no longer hold a membership with the superannuation fund. The ATO now has an obligation to proactively reunite members with any Unclaimed Money they receive.

Navigating the Complexity

Although it may not be evident based on the summary criteria set out above, the criteria for identifying both Lost and Unclaimed members within the legislation can be subjective, resulting in a great deal of confusion within trustees and administrators. Whilst guidance has been published by the ATO to assist trustees, in many instances flexibility may be applied to how a trustee defines and manages these processes.

There is a significant complexity in administering these varied scenarios which is further complicated by the repeated use of ambiguous and undefined terminology within the legislation. This is often compounded by incomplete, inaccurate, or disparate data held by trustees and administrators in relation to member engagement and member activity.

Ultimately, while navigating and adhering to this complex set of obligations, a trustee's paramount duty is to operate in the best financial interest of members when administering Lost and Unclaimed Money processing. Introduced in March 2021, Part 3D of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* enables a superannuation trustee to pay a member's superannuation balance to the ATO only where it is considered to be in the member's best financial interests.

What should superannuation trustees do?

The following actions are suggested for all trustees to ensure a best practice approach is adopted in managing Lost and Unclaimed Money and to maximise member retention.



Establish and document key definitions – terms such as 'reasonable efforts', 'reasonable time period', and 'contact' are repeated throughout the legislation but are subjective and, although guidance is available, require a trustee to apply their own lens in defining these terms. Without a clear understanding from the outset, trustees may have difficulty demonstrating that relevant criteria have been met and the Lost and Unclaimed obligations have been implemented appropriately. Trustees should consider reviewing Business Rules and any relevant policies to ensure that such terms have a documented meaning that is applied to the trustee's circumstances.



Incorporate Lost and Unclaimed into member engagement strategies – there is often a last-minute rush to engage with members who would otherwise be transferred to the ATO as Unclaimed Money. Urgent member engagement activities and campaigns are often devised and delivered in tight timeframes without the requisite care and attention to detail that is warranted. Although this may yield some positive results, a better strategy is to embed Lost and Unclaimed cohorts within a documented marketing and engagement strategy to proactively focus on these at-risk members year-round.



Develop a standalone Lost and Unclaimed processing guide – in addition to defining and documenting specific terminology, the overarching approach and policy to managing this process should reside in a formal document that translates the regulatory requirements into a relevant set of steps for the broader business (ie. Lost and Unclaimed Business Rules).



Engage a centralised Lost and Unclaimed project co-ordinator – treat the 6-monthly reporting process like a mini-project. Given the dependencies and timeframes that must be met, the required collective effort across varied stakeholders, the multiple trustee and administrator systems and data utilised, and the significant amount of money and members at stake, a trustee should seriously consider implementing a point person who has the requisite skills and responsibility to deliver the best possible outcome.



Proactively review and improve member data quality – every step within the Lost and Unclaimed process requires full and accurate data. Whether it be member personal details and contact information, contribution and transaction processing records, member contact and correspondence information or insurance data, the trustee must collate full data sets from across disparate systems to paint a picture of the member's engagement with the fund. Any proactive action that can be undertaken to improve the quality of the data the trustee will be invaluable to this process.

QMV Legal can assist trustees to adopt a best practice approach to undertaking Lost and Unclaimed Money processing, ensuring alignment with the legislation, regulatory guidance and in accordance with the trustee's internal policies and frameworks.

QMV also provides assurance for trustees and service providers in their data quality through our Investigate DQ software which validates and reconciles customer data from any platform or data source.

Give us a call, we'd be happy to help.



ABOUT QMV LEGAL

QMV Legal is committed to assisting superannuation trustees and their members achieve the best retirement outcomes through good governance, timely regulatory compliance, and pragmatic legal advice.

Being closer to the business operations and technology of running a superannuation fund provides QMV Legal with a unique insight into the legal issues faced by superannuation funds.

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If you have any questions or need assistance, you can contact us directly via the details below:



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