



# **Financial Management and Accountability Determination 2008/19 to establish the *Office of the Australian Accounting Standards Board Services for Other Entities and Trust Moneys Special Account***

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I, LINDSAY TANNER, Minister for Finance and Deregulation, make this Determination under subsection 20 (1) of the *Financial Management and Accountability Act 1997*.

Dated 7 August 2008

**LINDSAY TANNER**

Minister for Finance and Deregulation

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## **1 Name of Determination**

This Determination is the *Financial Management and Accountability Determination 2008/19 to establish the Office of the Australian Accounting Standards Board Services for Other Entities and Trust Moneys Special Account*.

## **2 Commencement**

This Determination commences on the later of:

- (a) the day on which subsection 22 (4) of the FMA Act is complied with; and
- (b) when the day on which Office of the Australian Accounting Standards Board becomes a prescribed Agency under the *Financial Management and Accountability Regulations 1997*.

*Note* This Determination takes effect in accordance with section 22 of the FMA Act. The Parliament must consider the Determination before it can take effect, and either House may pass a resolution disallowing the Determination. If neither House passes such a resolution, the Determination takes effect on the day

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immediately after the last day upon which such a resolution could have been passed.

### **3 Establishment**

For subsection 20 (1) of the FMA Act, a Special Account is established with the name *Office of the Australian Accounting Standards Board Services for Other Entities and Trust Moneys Special Account*.

### **4 Amounts to be credited**

The SOETM Special Account may be credited with amounts that are:

- (a) to be held on trust or otherwise for the benefit of a person other than the Commonwealth; and
- (b) to be received in the course of the performance of functions that relate to purposes of the SOETM Special Account; and
- (c) to be received from any person for the purposes of the SOETM Special Account.

*Note 1* The Appropriation Acts provide that if any of the purposes of a Special Account are covered by an item in those Acts (whether or not the item expressly refers to the Special Account), then amounts may be debited against the appropriation for that item and credited to the Special Account.

*Note 2* Subsection 39 (5) of the FMA Act provides that upon realisation of an investment of an amount debited from a Special Account, the proceeds of the investment must be credited to that Special Account.

*Note 3* Section 30 of the FMA Act has the effect that if an amount expended from a Special Account is repaid to the Commonwealth, that amount can be re-credited to that Special Account.

*Note 4* Section 30A of the FMA Act has the effect of increasing the appropriation under section 20 of the FMA Act for the purposes of the SOETM Special Account (and thereby increasing the SOETM Special Account's balance). The increase is of an amount equivalent to any GST amount that is recoverable in relation to a payment, and occurs immediately before the payment is made. The Goods and Services Tax is defined as the GST in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

### **5 Purposes**

The purposes of the SOETM Special Account, in relation to which amounts may be debited are:

- (a) to disburse amounts held on trust or otherwise for the benefit of a person other than the Commonwealth; and
- (b) to disburse amounts in connection with services performed on behalf of other governments and bodies that are not FMA Act agencies; and
- (c) to repay amounts where an Act or other law requires or permits the repayment of an amount received; and
- (d) to reduce the balance of the SOETM Special Account by amounts that are not Special Public Money.

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*Note 1* Subsection 20 (4) of the FMA Act appropriates the Consolidated Revenue Fund (CRF) for expenditure for the purposes of the Special Account up to the balance for the time being of the Special Account. Subsection 20 (5) of the FMA Act provides that whenever an amount is debited against the appropriation, the amount is taken to be also debited from the Special Account.

*Note 2* In addition to the purposes specified in this Determination, other provisions of the FMA Act provide authority for amounts to be debited from the SOETM Special Account.

Subsection 39 (1) of the FMA Act provides the Finance Minister with the power to invest public money in any authorised investment. Where such an investment is made of an amount standing to the credit of a Special Account, section 39 of the FMA Act has the effect that the Special Account must be debited.

Subsection 39 (4) of the FMA Act provides that if an amount has been invested by debiting a Special Account, then the expenses of the investment may be debited from the Account.

Subsection 39 (9) of the FMA Act appropriates the CRF for this investment activity.

Not all chief executives have been delegated powers to invest under section 39 of the FMA Act.

*Note 3* An amount may be debited from a Special Account where:

- (a) it has been incorrectly credited by virtue of a clerical mistake; or
- (b) it has been credited through the exercise of a discretion by an official and the exercise of that discretion was actuated by a fundamental mistake of fact or law.

Legal advice should be obtained before an amount is debited on the basis of paragraph (b).

*Note 4* Section 6 of the FMA Act applies to a notional payment by an Agency (or part of an Agency) as if it were a real payment by the Commonwealth. Notional receipts and notional payments are transactions between different parts of the Commonwealth. Real receipts and real payments are transactions between the Commonwealth and other entities.

## 6 Definitions

In this Determination:

***FMA Act*** means the *Financial Management and Accountability Act 1997*.

***SOETM Special Account*** means the *Office of the Australian Accounting Standards Board Services for Other Entities and Trust Moneys Special Account*.

***Special Public Money*** has the meaning given by section 16 of the *Financial Management and Accountability Act 1997*.