



## ASSISTANT TREASURER

<http://assistant.treasurer.gov.au>

**PRESS  
RELEASE**

### NEW DEFINITION OF A MANAGED INVESTMENT TRUST

The Rudd Government today introduced legislation into Parliament that will amend the definition of a managed investment trust (MITs) for access to withholding tax concessions to more closely align the definition used across different parts of the tax law and to widen access to MIT withholding tax concessions for certain wholesale trusts.

This follows the Rudd Government's comprehensive overhaul of the MIT regime through the development of a \$120 million new tax system for MITs, the passage of legislation to allow MITs to make an election to be treated on capital account and the significant reductions in certain MIT withholding rates from 30 per cent to 7.5 per cent by 2010-11.

These latest reforms are contained in *Tax Laws Amendment (2010 Measures No. 3) Bill 2010* which was introduced today following extensive consultation with industry on earlier draft legislation and a series of focused industry seminars.

"This is the next critical instalment in the Rudd Government's commitment to support a strong and growing domestic managed investment trust sector," said the Assistant Treasurer.

"These changes will better align the definition of an MIT across the relevant tax laws, but it will also, subject to appropriate integrity measures, see wider access to MIT concessions for certain wholesale trusts, including certain domestic private equity entities."

The new definition of an MIT contained in today's legislation will apply for both withholding tax and the capital account election and additionally includes:

- the ability, for the first time, for wholesale unregistered managed investment schemes and government-owned managed investment schemes, commonly referred to as wholesale funds, to be treated as a MIT;
- a reduced membership rule threshold for these wholesale funds, with the minimum number of members required to meet the MIT definition falling from 50 to 30;
- a special rule for counting the number of members that can be attributed to holdings by superannuation funds and specific other collective investment vehicles to determine whether the wholesale fund is widely held; and
- greater flexibility for MITs to apply an alternative test to the widely held test during its start-up and wind-down phases to better reflect the fact that the MIT may have certain different characteristics during those phases.

"This package of changes are very significant and will ensure access to the new MIT regime for a range of trusts that were previously either excluded or whose access was in question," said the Assistant Treasurer.

"This will help to simplify tax laws and reduce compliance costs for the managed funds industry."

In addition to these important widening measures, today's legislation contains a number of equally important and balanced integrity measures aimed at ensuring access to the MIT withholding tax arrangements and capital account election rules is focused on trusts that are appropriately widely held collective investment vehicles carrying on passive investment activities.

As such, the new definition includes:

- a requirement that a retail MIT be either a listed trust or have 50 or more members to qualify as a widely held MIT and that those 50 members be direct members of that retail MIT rather than traced members of investors in the retail MIT;
- a cap on individual foreign resident ownership of no more than 10 per cent of the fund to be applied as a requirement to qualify as a MIT; and
- a requirement that the fund is only engaged in passive investment activities – broadly that it is not a trading trust.

These measures are an appropriate step to guarantee that funds who take advantage of the highly beneficial new MIT environment are genuinely widely held.

"These integrity measures are appropriate in light of the need to ensure that retail MITs are genuinely widely held, which is firmly in the interests of mum and dad retail investors," said the Assistant Treasurer.

Further, the new definition includes a requirement, for MIT withholding tax purposes, that the investment management activities of the fund are carried out in Australia. This will support the Australian funds management industry.

Today's legislation includes a special transitional rule so that these changes to the definition of a MIT will not unfairly disadvantage existing investors and funds that qualified as a MIT for withholding tax purposes prior to these changes. Such funds will still be able to qualify as a MIT for withholding tax purposes for the next five years.

"We've included very generous transitional arrangements so no current fund or investor will be any worse off," said the Assistant Treasurer.

"Overall the amendments introduced today will support the Australian funds management industry and further boost Australia's ability to attract and retain foreign capital."

CANBERRA

26 May 2010

**Media Contact:** Joe Scavo 0413 800 757