

21 December 2011

Mr Tim Bryant  
Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
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Dear Mr Bryant

**INQUIRY INTO THE CORPORATIONS AMENDMENT (FUTURE OF FINANCIAL ADVICE)  
BILL 2011 AND THE FUTURE OF FINANCIAL ADVICE REFORMS GENERALLY**

AustralianSuper provides this submission in relation to the inquiry into the *Corporations Amendment (Future of Financial Advice) Bill 2011* ("Bill"), and the Future of Financial Advice reforms generally.

**About AustralianSuper**

AustralianSuper is a superannuation fund that is run only to benefit members. With 1.8 million members and \$42 billion in members' assets, we use our scale to provide the best possible retirement outcome for members.

As a provider of general and personal financial advice to its members and a holder of an Australian Financial Services Licence, AustralianSuper will be regulated by the Future of Financial Advice reforms.

AustralianSuper also has contractual relations with other entities that provide financial product advice to members of AustralianSuper, including unrelated independent financial advisory firms. These relations will also be impacted by the Future of Financial Advice reforms.

**Summary of issues**

AustralianSuper welcomes the Future of Financial Advice (FOFA) reforms and supports a commencement date of 1 July 2012 for all the reforms.

AustralianSuper as a provider of intrafund advice welcomes the expansion of intrafund advice and suggests all aspects of intrafund advice require commencement from 1 July 2012 in order to work properly with the FOFA reforms.

We support the best interest duty applying to intrafund advice and scalable advice and consider it to be compatible with the provision of scaled advice to consumers.

**Future of Financial Advice Commencement Date**

AustralianSuper supports a start date of 1 July 2012 for the Future of Financial Advice reforms. The financial services sector has had a long period of notice and consultation in relation to these reforms. We do not see it be necessary, nor in the best interests of consumers of financial products, for these reforms to be delayed any further.

We note that sections of the superannuation industry might have an interest in delaying these reforms so that they coincide with the Stronger Super reforms. This delay would allow another twelve months of advisers receiving commissions and volume bonuses on compulsory superannuation of Australian workers.

It would also allow another twelve months of advisers receiving commissions and volume bonuses on investments made by consumers in a range of other financial products that have nothing to do with superannuation.

AustralianSuper does not believe that the case has been made out why consumers of all financial products should be paying commissions and volume bonuses to advisers for another twelve months.

We note that the financial services industry has been preparing for these reforms for a considerable time. Members of both the Financial Planning Association and the Financial Services Council are subject to Industry Codes which ban commissions for most new products from 1 July 2012. We note that these industry led reforms were publicly supported by the Association of Superannuation Funds of Australia and the Australian Institute of Superannuation Trustees.

The Stronger Super reforms will take effect enabling the offering of MySuper products from 1 July 2013. The Australian Prudential Regulation Authority (APRA) will be receiving applications for MySuper authorisations from superannuation funds from 1 January 2013. These funds will have to demonstrate that they have scale, and can achieve efficiencies so that they operate MySuper products for the optimal benefit of members.

We also have full confidence in the Australian Securities and Investments Commission (ASIC) being able to administer the FOFA reforms in a facilitative manner and being able to consider compliance issues that may arise on a case by case basis in a sensible manner, without need for deferral of the requirements.

### **Interaction with MySuper and the concept of intrafund advice**

We wish to highlight to the committee that the Stronger Super reforms do not introduce the concept of intrafund advice. To consider delaying the commencement of the Future of Financial Advice reforms because of the introduction of intrafund advice reforms as a component of the Stronger Super reforms would be ill-conceived and based on inaccurate information. We suggest also that all aspects of intrafund advice reforms need to take effect from 1 July 2012 in order for them to work properly.

#### *Background*

Intrafund advice came into effect as a result of ASIC Class Order relief CO 09/210 and ASIC Regulatory Guidance 200 in July 2009. Only trustees of superannuation funds could use the Class Order relief. Both trustees of superannuation funds and all licensed financial advisers who are authorised to provide advice in superannuation could use the ASIC Regulatory Guidance 200 to provide intrafund advice to existing members of superannuation funds.

We understand that over 15 superannuation funds currently provide intrafund advice either directly, or through their outsourced financial advice arrangements. AustralianSuper provides intrafund advice to its members through outsourced financial advice arrangements, and also directly through interactive processes on our website.

An expansion of the intrafund advice regulatory settings was foreshadowed by the then Minister for Financial Services and Superannuation, Chris Bowen, in the Future of Financial Advice reform announcements in April 2010. The current Minister, Bill Shorten, announced the new regulatory settings for intrafund advice on 8<sup>th</sup> December 2011 (Media Release No. 164 "*Improving access to simple advice*"). We suggest that funds that already provide intrafund advice should be in a position to accommodate the increased scope of intrafund advice as announced with effect from 1 July 2012 as this expansion conforms to their existing offerings.

Intrafund advice reforms are a component of the Future of Financial Advice reforms. Reforms relating to costing of intrafund advice have been announced in the Stronger Super reforms (Recommendations 1.21 and 1.22), which should take effect from 1 July 2013. However, all other aspects of intrafund advice are subject to the Future of Financial Advice reform process and need to take effect from 1 July 2012, alongside other FOFA reforms. Indeed, the costs issue itself should be brought forward and considered under the FOFA reforms in order to consider this issue alongside the reforms relating to remuneration under FOFA.

### **Best Interests Duty**

We welcome the introduction of a statutory best interests duty in relation to the provision of personal financial advice and consider that it is overdue.

We have observed that the changes required by licensees in order to comply with the best interests duty relate primarily to risk management processes and are minimal.

We consider the best interests duty to be compatible with the provision of scaled advice and intrafund advice in its present form – it strikes the appropriate balance between protecting consumer interests and providing clarity to advisers in steps to take to demonstrate compliance.

**Conclusion**

AustralianSuper welcomes the Future of Financial Advice (FOFA) reforms as an appropriate and considered reform of the provision of financial advice in Australia.

We support the commencement of the FOFA reforms on 1 July 2012 including the best interests duty and all aspects of intrafund advice.

We support the best interest duty applying to intrafund advice and scalable advice and do not consider that this duty in its current form will prevent scalable advice being provided to superannuation fund members.

Yours sincerely

**IAN SILK**  
**Chief Executive**