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22 October 2018

Mr Mark Fitt

Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600
economics.sen@aph.gov.au

Dear Mr Fitt

Submission on Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Power) Bill 2018

AustralianSuper is pleased to have the opportunity to make a submission on the abovenamed Bill.

About AustralianSuper

AustralianSuper is Australian's largest single superannuation fund and is run only to benefit its members. The fund has over 2.2 million members and manages over \$140 billion of members' assets. Our sole focus is to provide the best possible retirement outcomes for our members.

AustralianSuper is generally supportive of the Government's intention to create new design and distribution obligations regarding financial products, and to introduce a product intervention power to increase consumer protection. We recognize that disclosure is not enough to ensure appropriate consumer protection, particularly with the increasing complexity inherent in some financial products.

We support the contentions made in the Industry Super Australia submission and in the Australian Institute of Superannuation Trustees submission.

Our submission however is confined to areas of concern that relate to the effective operation of AustralianSuper. The trustee of AustralianSuper operates a number of financial products, some of which are subject to the target market obligations contained in the Bill. It is noted that MySuper products are appropriately exempted from the target market obligations.

It appears that the Bill is intended to apply to conduct that occurs before a retail client acquires a financial product. The definition of 'retail product distribution conduct' may seem to have a broader application however and potentially covers a range of activities that would normally and legitimately transpire after a retail client has acquired a financial product. This would include, for example, varying an interest in a financial product, providing general advice or even a 'refresher' PDS to an existing superannuation fund member.

This potential defect could be resolved by an amendment to the definition of 'retail product distribution conduct' to ensure that it does not extend to conduct in relation to a financial product that has already been acquired by the member/retail client.

We note that such an amendment would also ensure that provisions relating to 'retail product distribution conduct' would then be aligned with the product intervention powers held by ASIC under the Bill. Section 10123C(1) of the Bill indicates"

"a product intervention order does not apply to a financial product held by a person if the person acquired, or entered into a contract for the acquisition of, the product before the order comes into force."

If you wish to discuss this matter further please do not hesitate to contact me on [REDACTED] or

[REDACTED]

Yours sincerely,

[REDACTED]

LOUISE DU PRE-ALBA
Strategic Policy Advocate