CORPORATE SUPERANNUATION ASSOCIATION Inc.

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5 July 2019

Mr Mark Fitt
Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Mr Fitt

Treasury Laws Amendment (Putting Members' Interests First) Bill 2019

We refer to the Committee's invitation to comment on the *Treasury Laws Amendment (Putting Members' Interests First) Bill 2019* (the ***Bill***).

The Corporate Superannuation Association

Established in 1997, the Association is the representative body for large corporate not-for-profit superannuation funds and their employer-sponsors. The Association now represents a total of 18 funds controlling $51 billion in member funds, held in a total of some 274,000 individual accounts. Of these funds, 10 have outsourced trustee services but maintain significant employer interest through policy committees.

In general, these funds are sponsored by corporate employers, with membership restricted to employees from the same holding company group, but we also include in our membership three multi-employer funds with similar employer involvement and focus. A number of our funds have defined benefit divisions.

Some of the smaller funds have their place in the pension fund structures of international groups, hence play an important role in the care and welfare of the worldwide workforces of these groups.

Background: Insurance in our Funds

The Association represent funds where the employer-sponsors have a well-established pattern of using superannuation and related insurance against death, and temporary and permanent disability, as a benefit, adapted to the needs of the employers' particular work forces.

We have, in our membership, funds that serve the employees of diverse companies involved in enterprises such as energy, extraction, shipping, communications and delivery, and insurance.

These work forces include some members with particularly hazardous occupations, and overseas locations, where insurance coverage requires specialist group cover. This is typically negotiated on better terms than would be available under more general group coverage, given the relative homogeneity of the work force and the known experience within that work force.

In addition, where the occupations are not particularly hazardous, the employers and funds have negotiated insurance arrangements that take advantage of experience in the relevant work forces to secure favourable terms.

Further, the insurance arranged in this way often provides superior cover, with the facility taking into account special locations and working conditions. A number of employers have also negotiated income protection cover on favourable terms. Our funds have wide experience in this area, and wish to see their members well protected, at minimum cost.

Support for measures that encourage account consolidation and effective and appropriate insurance cover

We support moves to reduce unnecessary costs to members and erosion of account balances. Recent moves to consolidate multiple accounts and to save members from spending on unwanted insurances are welcomed. We have concerns, however, about the current Bill and have outlined them below.

Time of application of the proposed provisions

The timelines required for funds to implement and communicate the proposed arrangements are impracticable. Administration arrangements involving accounts; notices to members advising them of the new rules; product disclosure documents; and insurance contracts, would need to be reorganized and these actions cannot be taken at the short notice contemplated in the Bill.

Funds have already been under great pressure to implement the changes in the Protecting Your Super measures which have just come into force. For members, we are told that the existing changes requiring transfer of inactive account balances have caused significant confusion, giving rise to high levels of demand on call centres. In terms of answering members queries, a thirty to forty second queue at the call centre at one major administrator has extended to ten minutes. Adding another layer of complexity at short notice with immediate implementation date will cause tremendous confusion to members.

A further consideration is that there continues to be significant account consolidation arising from initiatives including the Protecting Your Super measures. It would be worthwhile to pause to allow the effect of account amalgamation to flow through to create a larger number of accounts with balances over the low balance limit. A pause would reduce the problem of ceasing opt-out cover for low balance accounts whose balances then suddenly increased to in excess of $6,000 with a consequent reinstatement of opt out insurance arrangements.

We advocate deferral of the application of the provisions by at least six months following the passage of the legislation.

Age limit for "opt in"

The Association does not support the general application of "opt in" to *active* members under 25, and would prefer to rely on the inactive members' opt-in provisions to exclude duplicate insurance support.

We have funds in our membership whose employees are subject to significant occupational risk and need protection against disability. A number of these members under 25 years of age are also parents and need life cover. The inertia associated with "opt in" is likely to leave these members uncovered. Additional confusion arises where a member leaves one fund where he or she was covered (either through earlier default opt in, or employer exemption), and does not realize that the new proposed provisions would mean no coverage in the new fund. We believe that opt-in proposals for active members under 25 should be removed, or at least replaced by opt in only for those under 21 years old.

Low balances

We believe that the general application of "opt in" to employees with balances under $6,000 is fraught with practical difficulties. Funds have established mechanisms for ensuring that cover starts when employment begins, and this avoids a potential gap in cover. The proposals would result in employees commencing work without life and disability cover, with a hiatus until their account balance builds, or rollovers are completed.

Case by case approach for employers

We believe that there is a good case for retaining "opt-out" for active members under 25 and with low balances in specific occupations and situations. For example, we support retaining "opt out" cover for employees in maritime, mining, and construction occupations, also for employees working overseas and in remote locations in Australia on assignments where access to communications may be difficult. We would support the listing of specific occupations and situations in regulations, or exemption by APRA approval.

Cover for those whose premiums are funded by the employer: suggested clarification in section 68AAE

We appreciate that there is an exemption under existing section 68AAE of the Superannuation Industry (Supervision) Act 1993 for insurance cover related to insurance fees financed by employer contributions above the Superannuation Guarantee (***SG***) minimum. We appreciate that this exemption is intended to be broad enough to cover situations where insurance fees will be financed from reserves or surpluses built up from sources such as employer contributions in excess of the SG. However, there is some concern that this is not explicit in section 68AAE.

In addition, section 68AAE does not appear to recognise the practical situation that payments in respect of group life policies are generally made annually, not quarterly.

It is often the case that an annual payment is calculated at the beginning of each insurance year. This is then adjusted at the end of the insurance year once the insurer has completed a full reconciliation. This can result in a further payment or refund depending on the fund's actual experience. In this situation, insurance premiums may not be physically or specifically paid to the fund and when they are, it is certainly not on a quarterly basis.

We think that it would be helpful to clarify that the exception extends to situations where insurance premiums are 'covered' or 'deemed to have been paid' by an employer-sponsor from a fund surplus or similar despite the fact that no actual amount has been 'contributed' the employer sponsor.

These matters could be addressed by adding the following to 68AAE(1):

or

(f) the employer-sponsor fully covers insurance fees for the member through additional funding (above superannuation guarantee requirements) of a group life insurance arrangement in the fund.

In relation to the employer's declaration for section 68AAE purposes, we understand the link with SG quarterly support and actuarial certification, but note that employer financing of insurance fees is typically not a quarter-by-quarter decision of the employer, but is a permanent part of the benefit design and undertaking to employees. We suggest that as a matter of practicality, rather than requiring an employer to have to make a quarterly declaration, it would be an improvement to permit an employer to make a permanent declaration, or if not, perhaps a declaration for a material period like five years, tied in with an actuarial Benefit Certificate, for example.

Substantial support by employers

There are situations where employers provide significant amount of the insurance premium funding, but not all. An example is where the employer carries the cost of the death and TPD cover, but not income protection cover, which is borne by the member, but is part of the same insurance contract. We would support the extension of the application of section 68AAE to situations where the employer substantially bears the cost of the insurance, i.e. when an amount of at least 50% of all premiums (both employer and member paid) are 'met' by an employer-sponsor.

Unwitting loss of cover by employees with section 68AAE support on changing employment

We urge that Section 68AAE be amended to allow for the maintenance of all insurance cover in a public offer division if insurance has been provided pursuant to section 68AAE at any time during the member's tenure with the fund.

There is a concern that certain employer sponsored members who rely on section 68AAE will have to opt-in to insurance if they leave their sponsoring employer and transfer to the public offer division where ALL premiums are member paid. A major fund reports that the opt-in rate at this point is as low as approximately 6%, and we are concerned that through inertia, valuable cover will be lost.

This is an example of a number of situations where the "opt in" requirements may be overlooked on a change of circumstances, with loss of valuable cover and ignorance of the situation by the employee.

References in the Bill to "product", Choice product, MySuper accounts

We understand that it is acknowledged that there were problems with references to 'choice products' and 'MySuper' products in the first PYS bill.

We understand that changes may be made to existing provisions to make it clear the reference is to the member's total balance or total interest in the fund. This bill should be drafted to include this understanding.

Please let us know if we can assist with further background on these issues.

Yours sincerely

Mark N Cerché
Chairman
Corporate Superannuation Association Inc.