CORPORATE SUPERANNUATION ASSOCIATION Inc.

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14 November 2016

Mr Mark Fitt
Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Delivery via web page

Dear Mr Fitt

INQUIRY INTO SUPERANNUATION (EXCESS TRANSFER BALANCE TAX) IMPOSITION BILL 2016 [*PROVISIONS*] AND TREASURY LAWS AMENDMENT (FAIR AND SUSTAINABLE SUPERANNUATION) BILL 2016 [*PROVISIONS*]

We thank you for the opportunity to make a submission to the above inquiry.

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 22 funds controlling $72 billion in member funds, held in a total of some 560,000 individual accounts. Of these funds, 12 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 two multi-employer funds with similar employer involvement and focus. A number of our funds have defined benefit divisions.

Size, in terms of funds under management, ranges from $49 billion to $64 million as at 30 June 2015. 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.

Anti-detriment Provisions

The Association has concerns regarding the proposed transitional arrangements for the removal of the anti-detriment deduction, as set out in Schedule 9, Part 2 in the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016*.

1. The time limit of two years following 30 June 2017 is likely to be insufficient in situations where there is a disputed benefit: an example is provided below.
2. In such situations, where the benefit is paid after 30 June 2019, there is a difficulty in situations where, under the trust deed, the death benefit, including any anti-detriment payment, becomes payable on the death of the member if certain requirements are met.

Withdrawing the tax concession in the above circumstances will effectively "acquire" that part of the benefit that represents the anti-detriment payment to a person entitled to a benefit that included that component. There is no compensation for that acquisition.

The benefit should not be taken away from anyone entitled to a benefit that included an anti-detriment component on 30 June 2017. The effect of the change will be to either deny dependants a benefit or cause other members to bear the cost if the deduction is lost as proposed.

Consider a member who died before 1 July 2017 leaving a wife and former wife who were both dependants. They object about the trustee's decision and it is not resolved by 30 June 2019. The fund cannot claim a deduction until the benefit is paid, so under the proposed legislation, the benefit paid after 1 July 2019 will be reduced, or the remaining fund members will be disadvantaged, as the trust will not be eligible for a deduction for the anti-detriment payment.

If the benefit was paid before 30 June 2019 then a deduction would be allowed and the benefit would not be reduced. It is unjust to deprive a beneficiary, or to cause loss to other members of the fund, because the payment of the benefit is unavoidably delayed.

In light of the above we urge that the Committee recommend removal of the time limit under the transitional arrangements for anti-detriment payments, in respect of deaths occurring prior to 1 July 2017.

We are happy to provide further information as required.

Yours sincerely

Mark N Cerché
Chairman
Corporate Superannuation Association