

CORPORATE SUPER ASSOCIATION

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Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
P O Box 6100
Canberra ACT 2600

By e-mail to: corporations.joint@aph.gov.au

Dear Sir

SUPERANNUATION LEGISLATION AMENDMENT (MYSUPER CORE PROVISIONS) BILL 2011

We refer to your Committee's inquiry into the above Bill.

Terminology used in this submission

Core Provisions Bill	Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2011
Draft Trustee Bill	Exposure draft: Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012
The Association	Corporate Super Association

Background: the Corporate Super Association

Established in 1997, the Association is the representative body for large corporate not-for-profit superannuation funds and their employer-sponsors. We represent 35% of corporate fund assets and 30% of members of corporate superannuation funds. In general, these funds are sponsored by corporate employer sponsors with membership restricted to employees from the same holding company group, but we also include in our membership a few multi-employer funds with similar employer involvement and focus.

Many of the funds we represent include defined benefit divisions. Many of the defined benefit divisions are closed to new members, but there are also several that remain open. Many of the members are entitled to a combination of defined and accumulation benefits.

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Core MySuper provisions

We note that the Core Provisions Bill is incomplete and that many areas are still to be covered. The Draft Trustee Bill does not address all remaining areas, hence we still await further legislation.

Proposed section 27WA does not permit a fund to receive contributions unless the fund offers choice between products or has a MySuper product, and we do not believe that this is the intention.

The Core Provisions Bill and the Draft Trustee Bill leave unresolved the plight of trustees operating defined benefit funds sponsored by employers who wish to meet their superannuation guarantee obligations through defined benefits.

We have major concerns with the piecemeal introduction of this legislation because of the risk that the legislation may remain incomplete, hence will not achieve its object. The current state of play leaves certain stakeholders unable to operate under the framework.

Contributions under s 29WA

Proposed section 29WA would require all contributions that are paid into any fund to be paid into a MySuper product of the fund unless the member has provided the trustee with an election that the contribution is to be paid into a specified choice product of the fund. We can envisage situations where a fund that has only one “product” that is not a MySuper product receives a contribution, either because that fund is a chosen fund of the employee or because it is a defined benefit fund. These situations should both be legitimate circumstances under the proposed legislation.

Effectively the draft s 29WA, in its current form, does not permit a fund to receive contributions unless the fund offers choice between products or has a MySuper product, and we do not believe that this is the intention.

We are concerned about introducing this section in the current form, because making it workable relies on subsequent amendments which may take time to flow through or may not be enacted. We believe that this section requires re-drafting and its effective operation depends on exceptions and exclusions not included in the current Bill. Unless the necessary changes are made this section should be removed from the current Bill and introduced along with the required complementary provisions.

Section 29WA and defined benefits

We note the undertaking in the Explanatory Memorandum to the Core Provisions Bill at paragraph 2.8 that later tranches of legislation will include an exemption to the obligation for the trustee to pay Superannuation Guarantee default contributions into a MySuper product where the contributions relate to the member’s interest in a defined benefit fund. Section 29WA does not provide such an exemption, hence employers who currently meet their superannuation guarantee obligations through defined

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benefits will be unable to continue to do so unless and until the required amendments are made.

A related issue is that, currently, section 29WA does not contemplate the situation of a defined benefit fund that does not include a MySuper product, and we would like to discuss how it is proposed that this will be modified.

Other technical difficulties

There is a number of technical difficulties with the draft legislation which we understand are being raised by other bodies (including the Law Council of Australia). We have not detailed these, but please advise if you wish to discuss these.

Please contact the undersigned to discuss these matters further.

Yours faithfully

Mark N Cerché
Chairman
Corporate Superannuation Association