

CORPORATE SUPERANNUATION ASSOCIATION Inc.

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The Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018

We refer to the Committee's invitation to comment on the *Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018* (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 \$53 billion in member funds, held in a total of some 274,000 individual accounts. Of these funds, ten 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.

General comments

We have some concerns with the insurance aspects of the proposals.

In addition, we provide comment on the proposals regarding fees.

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Insurance issues

Background: insurance in our funds

We 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 of 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.

Cover for those whose premiums are funded by the employer

We appreciate that there is an exemption for insurance cover related to insurance fees financed by employer contributions above the Superannuation Guarantee minimum (**SG**).

Wording of the exemption in the Bill

We believe that the wording of the exemption needs to be expanded, as the current Bill's provisions relate the exemption to contributions "paid" by the employer. Sometimes insurance fees will be financed from reserves or surpluses build up from sources such as employer contributions in excess of the SG. This is quite common for hybrid defined benefit (**DB**) schemes, and might even occur in a defined contribution (**DC**) scheme where there has been a conversion from DB to DC. We urge that the exemption be expanded to cover these situations too.

Employer quarterly declaration

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 5 years, tied in with a Benefit Certificate, for example.

Cover for those whose premiums are paid from member account

We appreciate that the Bill provides that the "opt in" requirement does not apply where the employer is providing sufficient contributions above Superannuation Guarantee minimum to support the cost.

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However, in situations where the member does bear the cost and is in a high-risk occupation, or in a remote or sensitive location, we believe that it remains in the best interest of the member to be covered automatically.

As in the situation where the employer pays or funds the premium directly, the automatic removal of the insurance protection may work significantly to the employee's disadvantage, particularly where the employer-negotiated support aims to provide cover for particular risks or circumstances.

Included in our membership are funds with members who work all across Australia including in regional and remote locations and in some cases overseas. There are often communication challenges with these members, where they lack access to reliable internet connectivity. Also often members who spend a considerable amount of their time at work overseas or at sensitive locations do not have regular access to a postal address.

These communication barriers may result in these members losing the opportunity to "opt-in" for insurance cover. We believe that it is in the best interests of these members to be covered automatically.

There is, again, the additional risk arising from the need to seek coverage elsewhere, with attendant increased costs, potential underwriting, and reduced quality and suitability of product to the employee's circumstances.

We strongly urge that, in respect of the proposals to change the arrangements to default "opt in", a carve out be provided for members in hazardous occupations and situations. A carve-out should also extend, regardless of the nature of the work, to members who work in regional and remote areas of Australia and in sensitive overseas locations.

Inactive accounts: Cessation of automatic insurance cover

We would recommend that the proposed definition of "inactive account", which is defined at section 68AAA(3) of the *Superannuation Industry (Supervision) Act 1993* as an account where the trustee has not received an amount in respect of the member that relates to the product during the period, be extended to take account of activity involving withdrawals. Such a change would protect the position of a member who is claiming a total and permanent disablement (*TPD*) benefit which is to be paid from the account. Typically the account would not be receiving contributions but would be continuing to meet premiums for death cover that the member would expect to remain in place. Under the current Bill, the member would need to opt-in to death cover, where they already previously had cover and would expect it to simply continue, and would be likely to fail to take action to opt in.

Inactive low balance accounts: Cessation of automatic cover and transfer to the ATO

Under the Bill's provisions, the definition of "inactive low balance account" at proposed section 20QA(1) *Superannuation (Unclaimed Money and Lost Members) Act 1999* requires that "the superannuation provider has not received an amount in respect of the member for crediting to that product within the last 13 months".

In respect of a member with a TPD balance under \$6,000 remaining in the account, without continuing contributions, the current definition above would also require the TPD benefit to be transferred to the ATO when below \$6,000, even though the member had been actively

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accessing his account - nor would the member have an active account in another fund into which the ATO could consolidate.

The provisions do not currently appear to provide an opt-in option for such a member (although a member with insurance is exempt). We urge that an adjustment be made to the definition cited above, to take account of withdrawals.

Removal of Exit Fees and Low Balance Protection

In relation to these matters we have the following comments.

Exit Fees

A ban on exit fees does carry certain costs including the need to re-allocate the costs saved by the members on exit fees across the continuing member accounts. In addition there is the risk of exploitation of the absence of exit fees through multiple withdrawals.

Given that the purpose of the ban on exit fees is to facilitate consolidation, we recommend that the exit fee ban should only apply when a full withdrawal is made. Consolidation means all money is moved and consolidated with an account in another fund. It should not apply to partial withdrawals. Partial withdrawals are a voluntary, and deliberate, act by a member.

The absence of an exit fee on partial withdrawals means all other members will be financing the cost of those members using a partial withdrawal facility, and this is not an equitable outcome. Further, the absence of a fee on partial withdrawals in future may encourage the greater use of partial withdrawals, increasing this inequity.

We seek clarification of the situation where a fund winds up. In this instance, all costs associated with the wind up need to be apportioned fairly amongst members. We would appreciate clarification of this situation and if necessary an adjustment to the legislation or an exemption through the proposed regulations to ensure this is not an exit fee within the ban.

Low Balance Fee Caps

We have issues with the application of the fee limit to certain types of fees.

Investment fees and indirect costs

Inclusion of investment fees and indirect costs under the capping is problematic, as certain members can select against the fund and choose high risk, high return options for which they don't pay.

It needs to be remembered that the costs that are being limited for certain members do not disappear, but are met by the other members.

1 July 2019 implementation Date

Funds will face significant difficulty complying with the Bill's proposed 1 July 2019 implementation date for the changes.

The changes proposed in the Bill would require funds and/or their outsourced providers to increase the resources available in the following areas:

- Member Administration Systems, which are generally reliant on a number of third party providers;

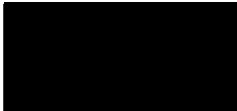
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- Member Communications, including changes to all product disclosure documents and relevant electronic materials; and
- changes to the technology infrastructure required.

We urge that a deferral of the start date for these provisions be considered. A transition period, with ASIC relief over a couple of years, may assist the industry.

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

Yours sincerely



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Chairman
Corporate Superannuation Association Inc