ACTU SUBMISSION TO THE SENATE INQUIRY INTO THE SUPERANNUATION LEGISLATION AMENDMENT (TRUSTEE GOVERNANCE) BILL 2015

The ACTU calls upon the Senate not to pass the Superannuation Legislation Amendment for the following reasons:-

- It seeks to impose a governance structure onto a class of superannuation funds (industry funds) which has the intention of fundamentally changing the ethos in which those funds have operated. The impact of changing this ethos would have the effect of:-
    - Over time, changing the principal operational aim of those funds from acting "in the interests of members" to that of replicating the aims of "for profit" funds as operated by financial institutions
    - The changes will not be in the interest of working Australians in that they will lead to the addition of others layer of costs and potentially lead to lower investment return performance, leading to a substantial reduction in the retirement savings accumulations of working Australians
    - Changes of this nature have a detrimental impact on public policy in that the impact of reducing individual superannuation savings accumulations leads in future years to a greater reliance by more Australians on the Age Pension
    - The changes could well change the focus given by industry funds to infrastructure investments
    - The change contributes to giving a greater stake in the provision of superannuation to financial institutions which have inherent conflicts of interest
- The principal driver of these impacts arises from the following:-
    - Essentially there are two models as to the structure of fund governance and outcomes.
    - The first is the "all profits to members approach"- an approach which has as its focus "the best interests of members": it produces better investment returns, works efficiently and supports good public policy. The governance structure operates on a "collaborative" approach, with a view to maximising returns within an across-industry system.
    - The second is that run by financial institutions on a "for profit" basis – that is, the first aim of the fund is to make a profit for the fund's owners

and within that constraint, returns are sought to be maximised. This system has consistently underperformed the former approach. It also has a governance structure at which "competition" is at its heart – trying to build funds under management to improve profits.

- What is fundamentally occurring is that the proposed legislation would seek to make the Boards of industry funds look like, and operate like, retail funds. The ACTU says the outworking of this will be that the performance of industry funds will then ultimately resemble that of retail funds. This is against the interests of workers and the national interest.

- The ACTU says the following about our current superannuation system:-
  - It has a unique history which is primarily responsible for its success
  - It has played a significant role in delivering strong public policy outcomes
  - It is the cornerstone of a recognised world-class retirement income system
  - Only the "all profits to members" approach is capable of delivering system aims – of a Comfortable Standard of Living in retirement
  - The best interests of members should be the guiding principle in establishing the regulatory framework which determines governance arrangements
  - Industry funds have a history of carefully adding Independent Directors to enhance skills without changing culture – this approach should be favoured over an approach which mandates set numbers of "Independent" Directors.

- In support of its advocacy for retention of the existing framework as an appropriate, the ACTU relies on the following elements of its submission:-

  - Australia has a retirement incomes system that is approaching world's best – but it relies on industry fund investment performance to maintain that ranking
  - This system is striving to reach an adequate, accepted standard of a Comfortable Retirement – only industry funds can achieve this, if the system relies on retail performance , the standard will not be met
  - Retail funds have systemic underperformance features – they invest in low cost asset classes with the consequence of this being that they achieve lower investment performance. This is demonstrated through APRA statistics on asset class allocation and investment return data.
  - Only industry funds have investment asset weightings which focus on infrastructure and other nation building asset classes. If the industry fund

model is challenged, it cannot be guaranteed that this weighting will remain

- Retail funds have inherent conflict of interest issues which arise when their representatives, who are remunerated through commission systems, are engaged in the “selling” superannuation products or investment options.
- The ACTU believes the FSI report into the effect of governance does not deliver an authoritative finding on governance issues: without thorough evidence it concludes that Independent Trustee domination of Boards will be good because it will add 1% extra investment performance. We say the finding of 1% additional investment performance is mis-conceived and the only evidence available to the Enquiry of outperformance should have been in “all profits to members” funds with jointly managed Trustee Boards. If this analysis is not accurate, then the conclusion on the benefits of Independent Directors cannot be legitimately made.