Community and Public Sector Union
Nadine Flood – Deputy National Secretary

Senate Finance and Public Administration Committee
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Parliament House
Canberra ACT 2600
Australia

By email: fpa.sen@aph.gov.au

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Dear Madam/Sir

Governance of Australian Government Superannuation Schemes Bill 2010, the ComSuper Bill 2010 and the Superannuation Legislation (Consequential Amendments and Transitional Provisions) Bill 2010

The PSU Group of the Community and Public Sector Union (CPSU) is an active and progressive union with approximately 55,000 members. The CPSU represents employees of the Australian Public Service (APS), the ACT Public Service, the Northern Territory Public Service, Telstra, the telecommunications sector, call centres, employment services and broadcasting.

The CPSU believes that superannuation is an important industrial issue for current, future and retired employees and we continue to represent and support retired workers within our industries. The CPSU is the principal union representing employees who are members of CSS, PSS and PSS(ap) schemes and as such has a significant interest in the proposed merger of the ARIA and Military Superannuation Boards.

The CPSU notes that the Governance of Australian Government Superannuation Scheme Bill 2010 and the Superannuation Legislation (Consequential Amendments and Transitional Provisions) Bill 2010 Bills are intended primarily to:

- Merge the Trustee Boards of the main civilian superannuation scheme – the Australian Reward Investment Alliance (ARIA), with the military superannuation schemes – the Military Superannuation and Benefits Board and the Defence Force Retirement and Death Benefit Authority (Military Super).
- Maintain on the trustee board appropriate governance and representational arrangements with representatives of Government, Military personnel, and Federal public sector employees.
- Create a new amalgamated entity – the Commonwealth Superannuation Corporation (CSC)

The other proposed Bill, the ComSuper 2010 Bill is intended to modernise the governance structure of ComSuper, the body that will provide administrative services to the CSC.

This submission addresses only matters associated with the merger of the two Trustee Boards and proposed governance arrangements.

The CPSU notes and supports the statement made by the Minister for Finance and Deregulation that the legislation will merge the Trustee Boards, not the individual schemes and that there will be no changes to benefits or entitlements.

The CPSU wishes to focus this submission on three components:

- Who will benefit from this merger;
- The importance of maintain the superannuation 'Industry Fund' model;
- Whose money is really being invested.

Benefits of the proposed merger

Smaller superannuation entities can potentially gain economies of scale by merging with larger entities. In the context of this merger Military Super can potentially make significant financial savings via proportionally reduced fees and charges. Any savings would benefit military personnel and by providing better returns could potentially reduce the government's ongoing unfunded liability in these schemes.

Industry fund model

The Bill will establish a new Trustee Board with 'equal representation' of employers and employees consistent with the provisions of the *Superannuation Industry Supervision Act 1993* (SIS). It is important to recognise that this is nothing new, the current ARIA and Military Super also comply with a range of SIS requirements.

Whilst noting that all schemes currently are, and the merged entity will be, covered by statute the governance arrangements should, to the fullest extent possible, be consistent with SIS standards. In this way CPSU members and Federal Public Sector employees can have confidence that their superannuation is protected by law and they are afforded the same standards they would be if they were in AustralianSuper, REST, HESTA or any other 'Industry Fund' regulated by SIS. The proposed legislation, whilst noting some specific statutory arrangements, continues to ensure that the merged entity is operating to the same standards that apply to SIS compliant 'Industry Funds'.

Specifically in establishing the merged entity the CPSU believes that two areas of the SIS regulated 'Industry Fund' requirements are important.

Firstly, the concept of equal representation. The proposed Trustee Board will have 5 employer representatives, 3 civilian employee representatives and 2 military personnel representatives as well as an independent chair. This representation provides a balance between the military and civilian representatives and is important as Trustees will be representing different constituents in some complex and very different superannuation schemes. Given the complexity of the individual schemes the CPSU believes the proposed Trustee Board is best placed to establish its Committee structure.

The merger entity will have 5 'employer' and 5 'employee' representatives, with an independent chair. Currently the ARIA Board has three 'employer' and three 'employee' and Military Super has two 'employer' and two 'employee' representatives. The proposed structure is therefore consistent with current arrangements and 'numbers'.

Secondly, for the equal representation to be genuine it is important that influence cannot be exerted by either employers or employees in regard to appointments from the 'other side' onto the Board. This is an important principle that underpins the operation of Industry Funds. Superannuation Trustees have a fiduciary responsibility and SIS, as well as the regulators, ASIC and APRA, require fit and proper standards in regard to appointments of Trustees.

Consistent with the ‘Industry Fund’ arrangements, it is not appropriate that either the employer or employees have the right to veto trustee appointments on the ‘other side’.

Whose money is being invested

There is one component of all the defined benefit schemes which will be covered by the proposed merged Board that is unusual. Unlike defined contribution schemes where there is normally no obligation on employees to contribute to their superannuation, all the defined benefit schemes require employee contributions.

The money that ARIA and Military Super invest is primarily the employees’ direct superannuation contribution, not the ‘employer’s’. In the case of current civilian employees in the CSS or PSS the employer contributes 3% of the employee’s salary into ARIA, whereas the great majority of employee’s are contributing an average of 5% of their salary. Given it is primarily the employees’ own contributions rather than the employer’s, there is no basis for an employer should have to veto the appointment of any of the employee representatives.

On the basis of the above, the CPSU support the Bills as they are proposed.

It is worth noting that the great bulk of the Government’s ‘employer’ superannuation contribution in the defined benefit schemes are an unfunded liability. The previous Government sought to address this by establishing the Future Fund. Given the issues about governance arrangements raised above, it is worth noting that, although the Future Fund is investing money to provide benefits to Commonwealth civilian and military personnel, there are no ‘employee’ representatives and the Government appoints all guardians to the Board of the Future Fund.

If you wish to discuss this submission or require further information please contact Melissa Donnelly, Senior Legal Officer, on (02) 8204 6971.

Yours sincerely

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Deputy Secretary