

09/03/2012

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Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Committee Secretary

Re: Inquiry into the Superannuation Amendment (MySuper Core Provisions) Bill 2011 and Superannuation Legislative Amendment (Trustee Obligations and Prudential Standards) Bill 2012

AustralianSuper provides this submission in response to the above-named inquiry.

About AustralianSuper

AustralianSuper is a superannuation fund that is run only to benefit members. With 1.8 million members and \$42 billion in members' assets, we use our scale to provide the best possible retirement outcome for members.

AustralianSuper supports the introduction of the Stronger Super reforms. We are preparing for these reforms and for the development of a MySuper product within the AustralianSuper fund.

Our submission deals solely with the issue of fund flipping, and its effect on the integrity of the Stronger Super reforms in relation to MySuper products. Whilst the practice of fund flipping might seem relatively benign compared to other consumer concerns in superannuation, fund flipping is a practice which is very effective in eroding away the retirement savings of superannuation investors. Fund flipping relies up the consumer being disengaged and not thinking about their superannuation because they have other more immediate concerns. As a result, their superannuation monies are flipped into a more expensive superannuation account, and the real effects of this are only noticed by consumers years later when their superannuation balances have not grown sufficiently.

MySuper and Fund Flipping

Under the current legislative proposals, a superannuation fund offering MySuper must offer a product with a standard set of fees to all prospective members, but the product

actually received by members may vary according to arrangements between their employer and the fund. This matter requires further consideration, because of its potential to undermine the operation and intent of MySuper and compromise retirement outcomes.

The practical impact of permitting variation in fees for different employer arrangements is that superannuation funds will be able to transfer - “flip” – members from an artificially low-priced MySuper product, offered to all employees of that employer, to a much higher-priced MySuper product in the same fund when they leave that employer.

This provision will enable super funds and superannuation trustees to promote an unsustainably low MySuper fee in the knowledge that the losses or low margins will be able to be recouped later by charging a much higher fee when members are transferred. The transfer will not require a member’s express consent at the time, because the transfer is seen as a feature of the initial product upon joining. It is realistic to expect that such practices will continue unless prevented.

This submission outlines two real-life examples of superannuation tailored to large companies, both employing many Australian workers, to show the real impact of this mechanism. Further details can be provided on request, including the relevant Product Disclosure Statements.

Example 1: Company A

Company A has recently retrenched a large number of employees. Prior to retrenchment, their fees in their subplan of the relevant superannuation trust were based on:

- 1.2% on contributions to the fund, and
- a 0.45% Investment Management fee.

The fees for a member with a \$50,000 account balance and \$5,000 annual contributions under this arrangement is \$285.00p.a.

When Company A employee gets retrenched they get fund flipped

When Company A employees are retrenched and make no decision about their superannuation, their superannuation benefits get transferred to the personal division of the superannuation trust. (This scenario is raised because under the Stronger Super reforms, *both* divisions of the superannuation trust could be MySuper products). On

transfer to the personal division of the superannuation trust, the member's fees will be based on:

- An asset based administration fee of 0.70% of the account balance (capped at \$2,000 p.a), and
- A 0.45% Investment Management fee.
- The administration fee is not charged for the first two months of membership.

The fee for a member in the personal division with a **\$50,000 account balance** and \$5,000 annual contributions will be \$516.67p.a. in the first year, and \$575.00p.a. for a member with a \$50,000 balance in subsequent years.

The fees for a member with a **\$176,200 account balance** (the average account balance in this fund) and \$5,000 annual contributions will increase from \$852.90p.a. in the employer plan to \$1,820.73p.a, and subsequently to \$2,026.30p.a.

The table below compares the fee increase for each respective account balance and displays it as a percentage increase as well.

	Before flipping	After flipping	\$ Cost Increase to member	% increase after flipping
\$50,000 account balance and \$5000 contributions	\$285.00pa	\$575.00pa For ongoing years	\$290.00	101.7%
\$176,200 (average account balance)	\$852.90pa	\$2026.30pa ongoing years	\$1173.40	137.6%

Example 2: Company B

Company B is another large employer who has negotiated terms with a superannuation provider so that employees pay:

- no administration fee, and
- an investment management fee of 0.39% p.a. of their account balance.

This fee consists of the estimated Indirect Cost Ratio (ICR) of 0.65%, less a rebate of 0.26% off this fee under a deal struck between the employer and the superannuation trust.

The fees paid by members with a \$50,000 account balance would be \$195 p.a. Members invested in an option with an investment management fee of 0.26% or less would pay no fees.

When Company B employee resigns they get fund flipped

When employees leave the employer, their super is transferred into the fund's personal division and they pay the following fees:

- administration fee: .
 - 0.70% of first \$100,000,
 - 0.55% from \$100,000 to \$250,000,
 - 0.40% from \$250,000 to \$500,000,
 - 0% above \$500,000 and:
- Member fee: \$102.10 p.a. and
- Estimated ICR: 0.65%p.a. (an investment management fee).

On this basis, the annual fees on a \$50,000 and a \$500,000 account balance respectively would be calculated as:

	Admin fee <\$100,000	Admin fee \$100,000 To \$250,000	Admin fee \$250,000 To \$500,000	Investment management fee	Member Fee	Total
\$50,000 account	\$350.00	-		\$325.00	\$102.10	\$777.10
\$500,000 account	\$700.00	\$825.00	\$1000.00	\$3250.00	\$102.10	\$5877.10

The table below compares the fee increase for each respective account balance after a member has been fund flipped and displays it as a percentage increase as well.

	Before flipping	After flipping	\$ Cost Increase to member	% increase after flipping
\$50,000 account balance	\$195.00pa	\$777.10pa	\$582.10	298.5%
\$500,000 account balance	\$1950.00pa	\$5877.10pa	\$3927.10	201.4%

We are not aware of this issue receiving regulatory consideration and are concerned that none of the proposed prudential standards that APRA is consulting on, nor guidance by ASIC as the conduct and disclosure regulator, deal with the long term effect that such offers have on consumers' retirement account balances.

We suggest that future MySuper provisions need to ensure fairness to existing employer fund members and to flipped members. Further, we seek to confirm that cross-subsidization with such stark differences for members will not be able to continue under the Stronger Super reforms.

It is noted that the *Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012* (“TOPS”) will introduce new requirements intended to enhance trustee obligations and to act fairly in dealing with classes of beneficiaries and beneficiaries within a class.¹ In its current form we submit that this requirement is insufficient to deal with fund flipping.

Proposed solution

We suggest that when an employee leaves an employer, that their superannuation interests should only be able to be transferred either within a MySuper product or between MySuper products with their express consent.

We also suggest that the Superannuation Amendment (MySuper Core Provisions) Bill 2011 be amended to require disclosure of the level of employer-sponsor fee subsidy provided for a MySuper product, to both APRA and the members who would be affected when the subsidy no longer applied to them. This would provide the quantitative evidence relating to the requirements of section 29TC(e) of the Core Provisions Bill that all employees be treated fairly in relation to any subsidy. It would also be an appropriate inclusion in tranche 3 of the Stronger Super legislation which is expected to provide APRA with data collection powers. This disclosure of administrative fee arrangements made by trustees should be applied to all situations where members may be similarly affected, including to the fee discounting provided to large employer sponsors.

Together with the increased transparency and accountability achieved by requiring express consent from members before the transfer of their accounts and disclosure from trustees as to subsidies provided will:

- give MySuper members ‘no surprises’ for not choosing their superannuation fund, so helps serve one of the primary objectives in MySuper – that is, a low cost product for the disengaged, and

¹ Proposed sections 52(2)(e) and (f) of the *Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012*

- ensure that the pricing of employer offers does not amount to loss leading that disengaged members will end up subsidising.

Summary of suggested changes

- When an employee leaves an employer, their interest in a MySuper product should only be able to be transferred to another MySuper or Choice product with their express consent.
- The Core Provisions Bill should be amended to require disclosure of the level of employer-sponsor fee subsidy provided for a MySuper Product to APRA.
- The Core Provisions Bill should also be amended to require disclosure to affected members when the subsidy no longer applied to them.

Should the Committee require further information or assistance on these matters we will oblige

Yours sincerely

LOUISE DU PRE-ALBA

HEAD OF POLICY