researched, tailored, and managed solutions

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

By email: corporations.joint@aph.gov.au

Dear Sir/Madam

Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 (the "Bill")

Certainty Financial is a corporate superannuation specialist firm. We are grateful for the opportunity to comment on the above Bill.

Whilst we generally agree with the principle of the MySuper reforms, there are elements to the legislation that cause us significant concern.

Transition of Accrued Default Accounts
The Bill proposes that trustees of superannuation funds that choose to offer a MySuper product must transfer accrued default amounts held in all funds for which the RSE licensee is trustee to one of more MySuper products before 1 July 2017 unless the member directs the trustee not to do so.

Trustees have already advised us of their intentions to apply their MySuper product offering under existing plans citing practical considerations. However, as a result of this, it will effectively remove our contractual rights to commissions. This undermines the grandfathering principle that was applied in the FoFA legislation. It would breach existing contractual arrangements we have with product manufacturers.

Without compensation, the impact the transfer of accrued default amounts will have on our business cash flow will be sudden and severe. We would be forced to withdraw a considerable range of services and dismiss as many as 8 to10 of our 26 staff.

In these circumstances who carries the responsibility for compensation to us – the Government or the trustees?

It is our view that the FoFA legislation, combined with the introduction of MySuper, already contains significant transitional elements that will change the way advisory services interact with, and charge, superannuation clients without having to introduce legislation that forcibly overturns existing contractual arrangements.

For instance, FoFA recognises that any grandfathered arrangements are displaced once new recommendations are made post 1 July 2013. The dynamics of FoFA (opt-ins) and MySuper (new default offering) will result in lower revenues from our current arrangements, driving the need to renegotiate our service contracts with our clients. Our revenue model will need to change.

The promotion and publicity that is bound to accompany the commencement of FoFA and the introduction of MySuper will also help drive an agenda for employees, employers and Superannuation Policy Committees to engage in a discussion around fees and commissions with the adviser to their plan.

The auto-consolidation initiatives in the Stronger Super package of reforms will also promote movements of grandfathered superannuation accounts.

These events should be allowed to unfold in a timely and orderly manner, enabling advisory firms like Certainty Financial time to adjust their business models while still delivering valued services to clients.

On this point it is worth noting that the Bill will have a prejudicial impact on corporate superannuation specialist firms like ours because of the volume of funds we advise on that are defined as accrued default amounts. Financial advisers that do not specialise in the employer superannuation segment will not feel the effects to the same extent. FoFA's grandfathering arrangements provide those financial advisers time to adjust their business models. The proposed transition of accrued default amounts denies us the time to do the same.

Finally, the Bill's transition requirements are retrospective in nature, impacting the contractual arrangements that were entered into in good faith prior to the proposed introduction of MySuper. Retrospective legislation has rightly long held to be undesirable and we do not believe it is warranted in this Bill.

Definition of Accrued Default Accounts

The Bill defines the accrued default amount to include amounts where a member has not exercised choice or amounts held in a default investment option of a fund. We fail to understand how the amounts held in the default investment option will in all instances be deemed to represent a MySuper interest.

There are many instances where members become "engaged" by exercising superannuation investment decisions that result in the retention of some, if not all, of their default investment option. A common recommendation to members seeking to reduce their exposure to growth assets is to direct future contributions to more conservative investment options rather than switching their entire account balance where losses from a market downturn are crystallised. It's common to recommend to members to blend alternate investment portfolios in with their default investment option to achieve the asset allocation and the management style outcomes they seek. It's also common to recommend members retain a 100% exposure in the default investment option.

In all of these instances the member surely meets the profile of an "engaged" member that has sought and received advice with appropriate fee and commission disclosures. However, the Bill intends to treat the default investment component as a MySuper interest and in doing so, forcibly break the contractual arrangements that exist between our firm and the member.

In conclusion, Certainty Financial urges this inquiry to recommend that the existing obligation within the Bill to forcibly transfer accrued default accounts to a MySuper product be removed from the Bill on the grounds that it is:

- unnecessary given other reforms proposed; and
- prejudicial against corporate superannuation specialist advisers; and
- retrospective in nature.

We also urge the inquiry to recognise the "engaged" status of a member that has clearly made investment decisions (switches) regardless of whether a balance of money remains in the default investment option.

We would be happy to elaborate on our comments if that would be of further assistance.

Yours faithfully

Mark Young
Managing Director
Certainty Financial

About Certainty Financial
Certainty Financial is a corporate advisory firm that specialises in providing services to the employer superannuation segment. We are a corporate authorised representative of **Australian Unity Personal Financial Services Ltd** (AFS Licence No. 234459). With offices in Melbourne and Sydney, we employ 26 staff. Typically the businesses we work with have between 100 and 2,000 employees and operate their employer default superannuation plan through one of any number of master trust products and industry funds.

The nature of our business is broadly consistent with how corporate superannuation specialist firms have been well represented and explained in earlier submissions to the PJC on Corporations and Financial Services on FoFA[1]. We appreciate that the specialisation has been appropriately acknowledged by the PJC and Treasury in response.

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[1] Parliamentary Joint Committee on Corporations and Financial Services FoFA Report