

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates

31 May – 2 June 2011

Question No: BET 118
Topic: Superannuation
Hansard Page: Written

Senator Bushby asked:

- Do you think that the representative trustee model is outmoded, now that we are in a Choice of Fund environment, and many industry super funds are public offer and contain members with no direct connection to the industry represented?
- Can (or does) ASIC regulate specific conflicts of interest that arise from mandatory equal representation on trustee boards?

For example, the *Australian Financial Review* reported on 27 May 2011 that ASU nominated trustees are preventing Vision Super from merging with Equipsuper – even though the merger was approved by APRA – because they would have to be elected rather than appointed. The collapse of this \$9b merger could have serious financial consequences for 100,000 Vision Super members, because most of the fund's assets are in a defined benefit fund that has already come under pressures as older members retire.

- Some super funds have billions of dollars of funds under management, yet do not declare the remuneration of their trustees. Do you think this is appropriate?
- Will the Government's proposal to ban commissions on life insurance sold within super – but not outside super – increase the upfront cost of life insurance sold through super and induce regulatory arbitrage?

Answer:

- Trustee governance of superannuation funds is a key feature of the Stronger Super Reforms. We note the Government has stated in a number of responses within the Stronger Super reforms that 'beyond the existing regulatory framework, the composition of a trustee board is a matter for the board to determine'.
- The Government has clearly stated in its Stronger Super Reforms that it will not be making changes to the current arrangements for equal representation on trustee boards: " the composition of a trustee board will remain a matter for the board to determine, (and) the Government will refer to APRA the need for additional guidance for trustees on appropriately managing conflicts of interest".

- Trustees that hold an AFSL are subject to a statutory obligation to manage conflicts of interest, set out in s912A(1)(aa) of the Corporations Act 2001 and addressed in ASIC RG 181.
- The Government supports best practice in governance and that these matters be addressed, to the extent possible, by a voluntary industry code of governance and, where appropriate, by prudential standards. The Government will consult with relevant stakeholders on design and implementation issues. This provides an opportunity for best practice issues, including remuneration, to be raised if appropriate.
- In relation to the question regarding life insurance, we note that we are not in a position to comment on the possible commercial outcomes of implementing legislative reforms.