

7 December 2006

Mr Stephen Palethorpe  
Principal Research Officer  
Parliamentary Joint Committee on Corporations and Financial Services  
SG.64, Parliament House,  
Canberra ACT 2600

Adelaide  
Brisbane  
Canberra  
Hobart  
Melbourne  
Perth  
Sydney

Dear Mr Palethorpe

### Inquiry into the Structure and Operation of the Superannuation Industry

I refer to the questions on notice at the Committee's public hearing held in Melbourne on Wednesday 25 October 2006 and respond to the following questions on notice (accompanied by the relevant Hansard extract).

#### 1. Transfer within a master trust requiring a PDS (p.3)

**(Senator Sherry): Q:** Does a transfer from a corporate member to a personal member within a master trust, on cessation of a member's employment, require a PDS?

**Answer:** A PDS is required in the following two situations that are treated as amounting to an issue of a new interest:

1. a person's membership in a sub-plan changes to membership in another sub-plan (Reg. 7.9.02(4) of Corporations Regulations 2001). (A sub-plan is a plan determined by the Trustee to be a sub-plan under the terms of the trust deed, having regard to a common factor in the segment of the fund : Reg.7.9.02(1)-(2)); and
2. a person who has a superannuation interest in the growth phase elects to receive a pension in relation to that interest (Reg. 7.1.04E(1)).

Furthermore, these changes in a person's fund membership attracts the obligation to report the changes to the member under the "significant event" reporting obligation in s.1017B(5E) of Corporations Act (as modified in Sch.10A (Part 10) of the Corporations Regulations). This is because a different insurance cover and fee structure may apply.

#### Hansard text:

**(Senator SHERRY - Mr Collins,** you were talking about the issue of disclosure in relation to existing members and new members. You may not be familiar with this, but I would be interested to know whether you are. In the case of a member who is in a master trust type bulk purchase arrangement, normally in a corporate environment, when they cease to be an eligible member of the master trust, usually through ceasing employment, and they are transferred into the retail section of the provider, what are the requirements in respect of notification of the member under FSR—if you know? You may not know.



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**Mr Collins**—Off the top of my head, the disclosure requirements for PDS apply to joining a subfund. If your example is that of a subfund, I think that would apply.

**Senator SHERRY**—Would it require in those circumstances the member's specific authority to be transferred to a subfund?

**Mr Collins**—A successor fund transfer does not require the member's consent. Apart from a successor fund transfer, I am not sure.

**Senator SHERRY**—That is fine. Perhaps you could take that on notice, given your expertise.

**Mr Collins**—Yes, certainly)

## 2. Survey material: quality of commission based advice (p.7)

**(Mr Bartlett): Q:** Is there survey material showing that non-commission advice is of better quality than commission advice?

**Answer:** Our submission was directed to surveys showing that the presence of commissions affects the quality of advice. An instructive example is the ASIC survey (referred to at p. 13 of our submission): ASIC Media Release 06/104 "*Survey finds quality of advice on super still needs improvement*" (6 April 2006). We also refer to the findings of this Committee in its report "*Statutory Oversight of the Australian Securities and Investments Commission*" (August 2006) para.2.38-2.45.

To assist the Committee, ASIC maintains a survey database, according to the evidence in this Inquiry (see *Hansard*, Monday 20 November 2006; p.73).

### **Hansard text:**

**Mr BARTLETT**—Returning to the issue of commission based advice, you make the point that there are serious doubts about the suitability of commission based advice for personal advice. Intuitively, one would think that advisers would be more inclined to direct people towards funds that do pay a commission and I suppose anecdotally there is evidence to support that, but has there been any extensive research done on the extent to which that happens, and, secondly, any research on the difference in the returns for the employee, the superannuant, in terms of commission based funds or commission based investment versus advice that is given on the basis of an up-front fee?

**Mr Gullone**—I am not sure if there has been any specific work done on comparing commission based advice to non-commission based advice. You would have to get a selection of members that have gone through those two experiences and do that survey. I do know, through independent surveys by companies like Rainmaker and SuperRatings, that members in an industry fund tend to be better off over the longer term and one-third better off in terms of net returns. Also, I think in their submission, Choice stated that close to \$1 billion was paid in commissions over the last 12 months or so. If you think about that \$1 billion being excluded from the investment account balances in superannuation funds, that is a lot of money that has gone out of the system or gone elsewhere that could have been invested within superannuation funds.

**Mr BARTLETT**—Equally you could argue, though, that up-front fees would create a substantial amount as well and that that could go back into returns, but obviously people have to pay for advice one way or another.

**Mr Gullone**—That is right. They have the option of paying for it or going for the default option or doing whatever they think is appropriate.

**Mr BARTLETT**—It really comes down to whether there is any evidence to suggest that rates of return in net terms are higher or lower under a commission based versus an up-front fees arrangement.

**Mr Gullone**—I have not seen any specific survey material in that regard.

**Mr BARTLETT**—Sure. If you do come across anything, if you could find anything, we would appreciate it.

**Mr Gullone**—Definitely).

### **3. Anti-consumer practices in processing rollovers (pp.20-21)**

**Q:(Senator Murray)** Do clearing houses disclose any practices adverse to consumers (eg delaying rollovers) that should attract regulatory intervention?

**Answer:** As a preliminary point, the term "clearing house" is appropriate for processing contributions (as opposed to processing rollovers). We understand the question as whether anti-consumer practices on the part of funds (particularly delaying tactics) are encountered in processing rollovers or transfers at the member's request.

In our experience, rollovers and transfers are subject to varying delays by transferor funds with their particular requirements.

We refer to the Federal Budget "Simpler Super" Plan (due for introduction to Parliament this week) which reduces the maximum turnaround time from 90 days to 30 days and introduces a standard transfer form. We welcome this initiative as Superpartners has previously recommended a standard transfer form with uniform proof of identity consistent with the Anti Money Laundering proof of identity requirements.

#### **Hansard text**

**Senator MURRAY**—Just one on notice, I suspect, but I will have to ask you a question first: do you act as a clearing house in the way that that is described?

**Mr Gullone**—In WA we acted as a clearing house for Westscheme for a period of time, but now that is all done in an alliance with a company called ADP. They act as the clearing house on behalf of employees.

**Senator MURRAY**—Think about whether you can respond to this—and this is a request, not an obligation. Yesterday I was exploring the issue of mobility and portability. That is rarely facilitated where the fund concerned is actively engaged and helpful in doing that. I have observed that there are some very large private funds—not industry funds so far in my experience—that have developed very sticky procedures designed to switch people off so that they leave their money in, and the consequence is that they retain funds which otherwise might have been moved. When I put this problem across to one of the witnesses, they suggested that people engaged in clearing-house activity would be aware of differences in ways in which funds manage

their affairs so that they make it difficult with respect to portability and mobility of funds. I am extremely interested in facilitating that, getting concentration occurring and getting people to sort things, so if you could think about what I have said and come back with a supplementary set of points as to whether you observe any practices which you think indicate the need for a regulator to investigate that area more and make sure that mobility and portability is facilitated.

**Mr Gullone**—I am happy to do that.

**Senator MURRAY**—Thank you very much)

We trust this answers the questions on notice. If you require further information, do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read "Frank Gullone".

**Frank Gullone**  
Chief Executive Officer

Copy: Paul Collins