Question on notice from Senator Ludwig

Your submission recommends that a definition of 'costs' be inserted in section 128N to permit the ongoing deduction of fees and charges associated with the provision of insurance cover by the superannuation fund trustee (pp 3-4). Are you able to quantify the value of these fees and charges to the superannuation fund industry?

In response to Senator Ludwig's question, we would submit the value of maintaining insurance cover to an affected individual, or more importantly, their surviving spouse, children or other dependents could be enormous.

Most members of superanuation funds are in funds that provide death and disability insurance as a benefit of membership. Generally, the trustee of the superannuation fund holds an insurance policy, often provided by a third party insurer. Generally, this policy is ordinarily paid for by the trustee deducting amounts from the member's account and then passing these on to the insurer to pay the premium. For members, the cost of insurance would mean as little as $25 per year or, if the member so chooses, upwards of a few hundred dollars deducted from the member's superannuation account for significantly higher benefits. Many funds allow members to opt-out of having insurance cover altogether. An additional benefit is paid out to the member or their surviving beneficiaries in the event of total and permanent disability or death of the member.

One of the reasons for offering death and disability cover through a superannuation fund is that superannuation funds are able to obtain a "bulk discount" through group cover. This is significantly less expensive (due to the spreading of risk over a large number of people) than an individual could obtain otherwise. As well, many funds offer "automatic acceptance" that provides cover to workers who could encounter difficulties in obtaining individual cover due to their occupation (for instance in mining and construction) or pre-existing health condition. In some instances the individual may have an individual policy with an insurer arranged through a fund. This is more likely in the case of a retail member of a fund established by a large financial institution.

Our concern centered on clarifying and ensuring that these insurance related payments from a member's account are within the definition of "costs" and therefore can be deducted from a member's account. We are concerned about a situation where a freezing notice is applied to the account, the insurance-related payments could not be made out of the bankrupt's / member's account and, as a result, the cover ceases. Then if the bankrupt / member becomes disabled or dies, the additional benefits either they or their surviving dependents would have been entitled to will not be paid. These surviving dependents could be denied benefits worth thousands or hundreds of thousands of dollars as a result. It is this type of situation we hope to avoid by making our suggestion.

The fund may be exposed to additional cost if unable to deduct amounts from the member's account to cover the insurance premium(s). Depending on the trust deed of the fund, the fund may be required to provide a benefit in the case of death and disavility but have no call on the insurer who would ordinarily make funds available. Indeed there may also be timing issues between the claim being made and the cessation of cover.

We cannot see how payment of insurance related costs could be used to defeat a creditor and see a number of unfortunate and indeed tragic incidents being avoided with a relatively simple clarification within the bill.