

Additional Comments by Labor Senators

Introduction

13.1 Labor endorses the major conclusions of the Committee's report into the draft Superannuation Industry (Supervision) Amendment Regulations 2003 and the draft Retirement Savings Accounts Amendment Regulations ("the portability regulations"), and indeed strongly endorses the report's recommendation that the draft regulations be amended to prohibit transfers of funds from active accounts.

13.2 Nonetheless Labor believes there are a number of other issues that need to be addressed before the regulations can be approved.

Portability and Choice

13.3 A major point raised in the report but not adequately addressed in the recommendations is the connection between portability and choice of fund. A substantial number of submissions to the Committee raised the point that the portability regulations, as presently worded, amounted to the introduction of a 'de facto' choice regime. Labor agrees with this view.

13.4 Labor believes that the portability regulations should only be introduced together with a 'safe' choice regime. Given that portability from inactive accounts is generally available to most fund members, Labor can see no need for the proposed regulations in the absence of an established choice regime.

13.5 Labor has stated clearly that it will support a safe choice regime that contains strong protections and safeguards to protect consumers. Consequently, it expects the same protections and safeguards to be in place before it will accept a portability regime that leaves the consumer open to exploitation by the more aggressive elements of the financial services industry.

13.6 The issues that Labor believes need to be adequately addressed before the introduction of a choice regime, including one introduced under the guise of portability include:

- a) Consolidation of multiple accounts and costs to funds;
- b) Education and disclosure;
- c) Fees, charges and commissions; and
- d) Death and disability insurance.

Consolidation of Multiple Accounts and the Costs to Funds

13.7 At present it is estimated that there are 25 million superannuation funds established for 9 million fund members. This is clearly inefficient for both the funds, through the costs of maintaining small balances, and the fund member through multiple administration fees.

13.8 Labor fully supports the concept of consolidation of multiple accounts but believes that the proposed portability regulations will not assist. Portability, except from active accounts, is generally available under the existing rules, yet most fund members fail to take up the opportunity.

13.9 Further, the evidence suggests that if the proposed portability regulations were implemented there would be an increase in the numbers of accounts as a fund member may move funds from a single active account to multiple accounts.

13.10 Given that the proposed regulations do not adequately address the issue of multiple accounts and will more likely result in an increase in account numbers, Labor suggests that the implementation of a system that automatically consolidates accounts is necessary. Consolidation from inactive accounts into the most current active account, or where there is no active account, into the most recent inactive account is Labor's preferred model, with the ability of the fund member to opt out of the consolidation process.

13.11 Automatic consolidation would also contribute toward a reduction of the costs of administration of funds, reducing the number of small accounts, and the consequent expense of maintaining those accounts. It would also avoid the pitfalls of a free-for-all portability regime, with the risk of multiple rollovers and the consequential increased costs for superannuation funds in administration and investment management.

Education and Disclosure

13.12 The proposed portability regulations allowing fund members to transfer account balances at will leaves many at the mercy of the financial advising industry. This is a major problem in the light of the most recent survey information available on the levels of consumer knowledge of financial matters, in particular, superannuation (The ANZ Financial Literacy Survey) and the professional and ethical standards of financial planners (The ASIC/ACA Shadow Shopping Survey of Financial Planners).

13.13 Labor believes that the introduction of any portability regulations or choice legislation must be accompanied by a comprehensive and aggressive financial literacy education campaign carried out by the Government in consultation with the financial services industry. Great care must be taken to ensure that any education provided to the public is balanced information and not marketing disguised as education.

13.14 There is an argument that with the advent of the new disclosure rules, consumers will be able to make educated comparisons and decisions about financial

investments, including choosing superannuation products. There is little doubt that improved disclosure, particularly of fees and charges is a major step forward, but like education, disclosure alone is not the answer. For disclosure to be effective it needs to be clear and in a form that makes a comparison between different products possible.

13.15 The introduction of both portability and choice will open consumers up to the high-pressure selling environment of the financial services industry. Even with a comprehensive education program and better disclosure many consumers will remain ill equipped to deal with marketing and sales pressure, disguised as financial advice. This means that to ensure that consumers receive fair and efficient advice, the quality of financial advice must also be dramatically improved on current standards.

Fees, Charges and Commissions

13.16 The fees, charges and commissions on superannuation products remain an on-going concern to Labor. In the context of portability, exit fees are a particular concern as high exit fees effectively operate as a barrier to both portability and choice.

13.17 Portability of superannuation accounts becomes a farce when fees up to 95 per cent of the fund balance can be charged when a member seeks to transfer funds to another account. Taking account of this Labor is of the view that exit fees in their current form must be prohibited and replaced with an administration fee calculated to cover the costs of the administration of a rollover or transfer to another fund.

13.18 Commissions on superannuation guarantee (“SG”) contributions are also a concern in the context of portability. There is a risk that some less scrupulous financial adviser will be motivated not by the interests of their client, but by the commissions received for the products they recommend. This will be compounded by the fact that only very financially literate consumers will be able to accurately estimate the real cost of a commission.

13.19 Labor believes that, as the SG is a form of compulsory saving, it must be protected from erosion by costs other than those necessary to administer the fund and its investments. It believes therefore that commissions should be banned on products purchased with SG contributions.

Death and Disability Insurance Cover

13.20 Serious concerns were raised about the implication of the portability regulations and insurance cover provided by many funds. Concerns included:

- The fear that insurance cover provided by many funds, which is generally less costly, could be withdrawn or become more costly; and
- That some members, ignorant of their true insurance entitlements, may transfer to a fund that does not provide comparable insurance benefits.

13.21 Labor believes that these death and disability insurance issues must be firmly addressed before any portability arrangements can be supported.

Conclusion

13.22 Labor believes that the portability regulations must be amended to:

- Prohibit transfers from active superannuation accounts;
- Provide for the automatic consolidation of inactive accounts into the last active account, or where there is no active account, the most recent inactive account;
- Provide for simple, standard, comparable and enforceable disclosure of all fees and charges;
- Include provisions for the funding of an extensive public education campaign on the introduction of any portability or choice regime;
- Include a ban on exit fees and allow funds instead to charge an administrative fee sufficient to cover the reasonable administrative costs of the rollover or transfer;
- Ban commissions on superannuation products purchased with SG contributions; and
- Ensure that fund member insurance entitlements are adequately protected.

13.23 Unless the amendments are made Labor recommends that the regulations be disallowed.

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