



Investment & Financial Services Association Ltd

ACN 080 744 163

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The Secretary
Senate Select Committee on
Superannuation and Financial Services
Parliament House
CANBERRA ACT 2600

Dear Ms Morton

Committee Reference - Early Access to Superannuation

The Investment & Financial Services Association represents Australia's leading investment managers and life insurance companies. Our 100 members hold more than \$630 billion in assets under management on behalf of nine million Australians who have superannuation and managed funds.

The general principle of preserving superannuation for retirement is important and access to those funds should continue to be limited. The current ground of severe financial hardship (SIS Reg 6.01(5)), and the compassionate grounds set out at SIS Reg 6.19A, are appropriate in principle.

The difficulty with the current regime appears to lie with the rigid and restrictive administrative rules in these regulations. IFSA supports at least some easing of the current administration of early access to preserved superannuation benefits. We understand most difficulties arise where the existing grounds are met in spirit but fund members find the detailed rules still preclude access.

It is vital that whatever rules are adopted are based on simple and objective tests. Subjective tests are difficult and costly to administer even in easy circumstances. In the context of hardship or compassionate access to superannuation, a subjective test almost guarantees disputation between fund members, regulators and trustees. The most desirable outcome is that the administrative rules for early access can be satisfied by reference to facts that: are easy for the member to establish; and do not require the exercise of an appealable judgement by the trustee.

This is a critical point. Compassionate grounds for release involve difficult and stressful circumstances. Disputation is more likely for this reason alone, and would be exacerbated by subjective indicia where the fund member will almost certainly

have a different point of view to a decision-maker - and this view will be strongly held. The likelihood of disputes and complaints significantly increases with non-objective indicia, and this would result in delays to eventual release of funds, and higher costs to be borne by all fund members.

With these issues in mind, IFSA believes it is possible for current rules to be simplified and softened. This can be achieved without compromising the principle of limiting pre-retirement access to superannuation or imposing costs, difficulties or delays on fund members and trustees.

The strict requirement for 26 continuous weeks on income support at SIS Reg 6.01(5)(a)(i) is too rigid and should be made more flexible. Individuals may not have fully continuous income support for a wide variety of reasons, yet still be in severe financial hardship. Application of administrative breaches and penalties in the income support system is one such reason that has received significant negative coverage. A simpler requirement, such as for 26 weeks' income support in 39 weeks, would provide flexibility within a simple and objective measure.

The current compassionate grounds under SIS Reg 6.19A have also attracted criticism for rigidity in administration. For example, the requirement that medical treatment not be readily available through the public health system has been criticised because it prevents people using superannuation to obtain earlier or alternative treatment. This might be able to be addressed by appropriate interpretation of "readily available" under Reg 6.19A(3)(b).

Despite these issues, IFSA member companies have not reported significant problems in administering the current rules for early access to preserved benefits. We would attribute this to the fact that trustees are not required to make judgements or research information. Imposing either requirement on funds, particularly for compassionate grounds currently assessed by the regulator, would add to administrative cost and disputation at fund level.

Yours sincerely,



Richard Gilbert
Deputy Chief Executive Officer