

ASFA POLICY PRINCIPLES

September 2010

Association of Superannuation Funds of Australia

Foreword

As the peak industry body for superannuation, ASFA has developed policy positions on a range of issues since its inception in 1961. The pace of policy development has increased in the last 10 years with the huge changes in superannuation and the Australian retirement income system generally. In proposing, championing, or responding to these environmental changes, ASFA's policy positions have grown in breadth and depth.

Through a range of activities, ASFA has stimulated debate in industry and government on key superannuation issues and provided a focus on the end goal: adequate and sustainable retirement incomes for Australians. In creating these Policy Principles, ASFA has clearly articulated the criteria against which it will evaluate policy initiatives from government and industry as we strive towards this goal.

ASFA's Policy Principles provided the foundation for its submissions to the Henry Review into Australia's Future Tax System and the Cooper Review into the Governance, Efficiency, Structure and Operation of Australia's Superannuation Industry. Similarly, they will be used when responding to future reviews or proposed changes to the superannuation industry framework.

This compilation of ASFA policy positions was reviewed by the Policy Committee in the first half of 2010. As a living document, it will be reviewed regularly to ensure it remains relevant.

ASFA's Policy Principles provide the necessary guidance and framework, so that ASFA can participate in current and future debates in a timely fashion.

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Document History

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POLICY PILLAR 1. Enhanced Retirement Outcomes

1.1 Retirement income policy and changes to the system

- 1.1.1 ASFA calls for a politically bipartisan commitment to setting a long term vision for superannuation that promotes public policy which optimises retirement income outcomes and certainty. Any changes to the retirement income system should then be measured against this vision, and should only be implemented where it can be demonstrated that they are moving the system towards these long term outcomes. In other words this vision will provide a roadmap for any future changes to the system.
- 1.1.2 ASFA understands that changes to the superannuation system will be necessary to move towards this long term plan, nevertheless we caution that government must tread with care when making such changes. Government must be mindful that excessive tampering of taxation can lead to diminished member confidence in the system which will in turn have an impact on voluntary contributions and therefore adequacy.
- 1.1.3 ASFA supports retirement income policy that has the following characteristics / aims:
- provides adequate and sustainable retirement incomes;
 - increases national savings;
 - is equitable;
 - is simple and understandable;
 - supports products that represent value for money;
 - is run efficiently;
 - has an appropriate balance between private and public responsibilities;
 - is made more secure by an appropriate, efficient and clear regulatory regime;
 - has adequate consumer protection and ensures members are well informed and educated on retirement income issues and on their rights and responsibilities;
 - has effective and low cost mechanisms for resolving member problems and disputes;
 - deals with the fiscal consequences of an ageing population and increases in the longevity of that population;
 - has a legislative and regulatory regime that does not create distortion and ensures a level playing field among market participants; and
 - recognises workforce diversity.

1.2 Structure and Characteristics of the retirement saving system

- 1.2.1 ASFA takes as its starting point the view that there is broad political and community support in Australia for a retirement income system (commonly referred to as the “three pillar” system) aimed at achieving adequacy through:

- Pillar 1** Provision of an adequate **public safety net** (the Age Pension) funded out of general revenue;
Pillar 2 **Compulsory payment of a set level of contributions** for those in the labour force; and
Pillar 3 Encouragement of **voluntary self-provision**.

1.3 The age pension – Pillar 1

ASFA supports a guaranteed minimum retirement income provided by Government on a means tested basis. It must provide a level of income that meets the necessities of a dignified standard of living. ASFA recognises that this is the sole income for many retired Australians.

1.4 Compulsory savings – Pillar 2

- 1.4.1 ASFA supports mandated contributions as well as the (prudent) management and investment of these contributions (as necessary for the control, security and maximisation of earnings rates on savings).
- 1.4.2 ASFA considers that a 9 percent Superannuation Guarantee requirement is not sufficient to generate adequate retirement incomes.

- 1.4.3 ASFA recommends that an additional contribution of 3 percent of salary be introduced, taking total mandatory contributions to 12 percent.
- ASFA believes that increasing SG is the preferable method of implementation;
 - ASFA understands the difficulties around an increase to the SG, so if this is not possible then our next preference is for a compulsory additional personal contribution. If the requirement was introduced gradually, individuals could in effect pay for the additional contributions from pay rises. For example the additional contributions could be introduced as follows:
 - 1.0 percent from 1 July 2011
 - 2.0 percent from 1 July 2013 and
 - 3.0 percent from 1 July 2015.
 - Our third preference is for “soft compulsion” of personal contributions.
- 1.4.4 ASFA believes that higher contributions are required across the board to achieve an adequate retirement income.
- 1.4.5 For self-employed people, ASFA recommends that:
- a compulsory contribution is gradually introduced:
 - starting at 1 percent of taxable income in 2010-13 and
 - rising to 9 percent of taxable income in 2018-19.
 - the contribution would be made as a proportion of the person’s taxable income, averaged over three years; and
 - the contribution would not be required in the first two years from start-up of a business;
- 1.4.6 For all Australians ASFA recommends that:
- SG applies to all Salary Continuance Insurance payments i.e. 9 percent of SCI insurance is paid into super;
 - Government pays 9 percent SG on their proposed paid maternity leave;
 - Employers pay 9 percent SG on paid parental leave;
 - SG is paid on unused long service leave taken as a lump sum;
 - SG is paid on entitlements to wage payments made after the cessation of employment, eg following legal action; and
 - Government remove the provision that excludes SG for those earning under \$450 per month from a single employer. A minimum dollar payment such as \$10 should still apply for practical purposes.

1.5 Voluntary savings – Pillar 3

- 1.5.1 Voluntary savings and retirement income beyond the levels mandated should be a matter for individual decision.
- 1.5.2 ASFA supports the restoration of the maximum co-contribution to individuals who earn moderate incomes (set as indexed assessable income and reportable fringe benefits equal to Average Weekly Ordinary Time Earnings).
- 1.5.3 Contributions rules should recognise individual circumstances such that those who are underfunded are able to catch up. ASFA recommends that the current system of annual contribution caps is reviewed to enable “catch-up” contributions. For example an alternative could be a maximum contribution cap over a lifetime.
- 1.5.4 There are particular challenges with superannuation funding for individuals with broken work patterns, such as new migrants and returning expatriates. ASFA recommends a review of current arrangements with a view to allowing this group of people to make contributions that would enable them to meet the same adequacy standards as those with uninterrupted work patterns.

1.6 Coverage in compulsory and voluntary savings arrangements

- 1.6.1 ASFA supports arrangements that aim to be more inclusive rather than less. Individual needs and capacity to contribute should be the test, not employment status.
- 1.6.2 ASFA supports the eligibility of all Australians to save for their retirement. Employees, the self-employed and those relying on business and investment income should be included in the compulsory savings arrangements, as well as being able to save on a voluntary basis. Unless and until a group can be exempted unconditionally from later access to the Age Pension safety net, it is the responsibility of all to shoulder part of the burden of saving for future retirement income needs.

- 1.6.3 ASFA supports steps that aim to achieve a broader level of superannuation coverage. ASFA supports permitting contributions to be made to a superannuation fund by or for those not in employment, providing incentives for contributions made on behalf of target groups and provisions which allow the division of superannuation entitlements at the time of divorce.
- 1.6.4 ASFA supports provisions that allow Australians to be able to make both before tax and after tax contributions to optimise their savings for retirement. Employers should be required to provide employees with access to salary sacrifice facilities.
- 1.6.5 In relation to incentives for making contributions for spouses not in paid work or in low waged employment, ASFA supports better targeting of incentives to families whose joint income does not exceed agreed limits.

1.7 Setting a retirement income goal

- 1.7.1 There currently is no clear retirement income goal against which Australians can measure the adequacy of their superannuation.

In order to achieve dignity in retirement, the starting point is that retirement income cannot be lower than the “modest” standard of living in terms of the ASFA/Westpac Retirement Standard. On our current assessment in 2010 this requires a retirement income (including drawdown of capital) of the order of \$20,981 a year for a single person.

Individuals should also be provided with guidance and assistance in achieving higher levels of retirement income where this is appropriate. Most individuals with income above very low levels will want and need a retirement income which is a percentage of their pre-retirement earnings. This will be in the order of 60 percent or 70 percent of pre-retirement income.

1.8 Age Limits

- 1.8.1 Preservation age should remain at 60. There should be a gap between the preservation age and the Age Pension eligibility age, such that individuals have a five year period during which they can transition to retirement. In order to allow a transition to retirement, the age at which a person can access their super must always be at least 5 years before the Age Pension eligibility age.
- 1.8.2 For simplicity, a common age of 75 should be set for cessation of all contributions (SG, personal, salary sacrifice).

1.9 Use of Superannuation for other purposes

- 1.9.1 An effective retirement income system needs to be primarily focussed on providing incomes in retirement. ASFA does not support members being able to access their superannuation savings for purposes other than retirement as this leads to the dissipation of funds. The provision of housing, aged care, unemployment benefits, or health services should be the subject of separate public debate.

1.10 Delivering income streams

- 1.10.1 The superannuation system should be focussed on the clear goal of delivering an income stream for retirement years. Clear long term messages need to be given to the community around an income stream being the normal and preferred way of taking a retirement benefit. ASFA believes the focus of at least the young in our workforce should be moved to expecting an income stream.
- 1.10.2 It should be clear that it is the combination of the three pillars which generate this income stream. As such, clear integration between the Age Pension (pillar 1) and compulsory (pillar 2) and voluntary (pillar 3) retirement provision is required.
- 1.10.3 ASFA supports simplified rules and tax incentives for income streams which allow flexibility in product design to meet members’ needs and which encourage retirement income streams.

1.10.4 *Flexible retirement*

ASFA supports rules relating to paying benefits and accepting contributions for older workers which reduce complexity, improve equity, increase ease of application for administrators and that make them more suitable for the modern workforce.

1.10.5 ASFA supports equitable income tax treatment for those aged 60 and over who are re-entering the workforce, regardless of whether their superannuation benefit was paid from a taxed or untaxed source.

1.11 **Post retirement and longevity risk**

1.11.1 Government needs to re-assess legislative, regulatory and capital impediments which restricts product development in the retirement space including:

- abolishing Income Ruling IT 2480; and
- modifying or repealing SIS regulation 1.06(2).

1.11.2 There should be enhanced co-operation between the Regulators in terms of approving new retirement products. Currently product providers must deal separately with the ATO, APRA, ASIC and Centrelink.

1.12 **Taxation**

1.12.1 Taxation is a key driver of superannuation policy. In setting a superannuation tax policy – government should consider:

- the importance of encouraging private provision to ensure that Australians can retire with dignity and that retirees can contribute towards the country's future economic prosperity; and
- ASFA supports the capping of superannuation tax benefits and concessions and calls on government to provide a more equitable treatment of taxation superannuation contributions and benefits by means of progressive taxation across the income bands.

1.12.2 ASFA supports the maintenance of adequate and easily understood tax concessions for superannuation on the basis of the public policy objectives that it achieves. These incentives should be sufficient to encourage additional savings and to offset the negative impact of the preservation requirements on people's savings behaviour.

1.12.3 ASFA considers that favourable tax treatment should be provided to assist savings in superannuation funds established for retirement income purposes. This compensates members for the preservation of their funds. The corollary is that the same degree of favourable tax treatment should not be applied for savings and investment arrangements which are not primarily established for retirement income purposes, and which are not preserved.

1.12.4 ASFA supports a superannuation taxation system that is simple and equitable.

1.12.5 Flat rates of tax on contributions are generally not compatible with equity goals but to introduce variable tax rate on contributions would introduce complexity. We recommend that tax rebates are introduced to ensure lower income earners receive favourable tax treatment on their before-tax contributions to superannuation.

1.12.6 ASFA supports tax concessions or other government assistance to be targeted to encourage additional savings by those with historically the poorest savings records - those on low to middle incomes, women with broken work patterns and/or expectations depending on a spouse's savings, and social security recipients. Such targeting should be conscious of the need for simplicity and equity.

1.12.7 ASFA supports relief from Capital Gains tax where assets are transferred from one registrable superannuation entity to another registrable entity, or when superannuation funds are merged.

1.12.8 ASFA understands that tax reform is a fundamental part of government and the budget process in particular, nevertheless we caution that government must tread with care when assessing superannuation taxation in view of the very long term nature of superannuation investments. Government must be mindful that excessive tampering of taxation can lead to diminished member confidence.

- 1.12.9 ASFA's attitude to any tax reform proposals is related to the impact of such proposals on superannuation and savings more generally. To this end:
- tax reform should not impose undue costs on superannuation funds and their members; and
 - realistic timetables are required that would allow any affected funds to adjust their accounting and investment practices if this were required in any reform.

1.13 Investments

- 1.13.1 A priority for ASFA is that legislation and practices applying to investments by superannuation funds remain consistent with, and supportive of, a sound **national retirement income policy**.
- 1.13.2 ASFA supports the thrust of the current *sole purpose* test in SIS on the basis that savings within the superannuation system should be for retirement income purposes. Accordingly, an important consideration in evaluating any proposal for the use of superannuation money is whether it supports the intent of Australian Retirement Incomes policy.
- 1.13.3 Providing the investment objectives, strategies and products are aimed at saving for retirement, decisions around these issues should be left to the trustee acting within the framework of SIS and trust law.
- 1.13.4 ASFA does not support directed investments, i.e. government directions to invest or not invest in certain classes of assets (such as venture capital, infrastructure, regional development, research and development, housing, forestry and small business). ASFA is not opposed to the use of taxation or other incentives to make it attractive for funds to invest in specific areas.
- 1.13.5 ASFA does not support investment strategies for superannuation funds which have as their principal objective the development of social or economic infrastructure, specific job creation, the immediate financial needs of a small business, or life-style amenities of the trustee/member.
- 1.13.6 ASFA supports restrictions on fund investment activities which, because of an inter relationship of the financial affairs of the trustee, the members, the employer sponsors, or their associates, would put a greater risk on the members' retirement savings. Restrictions currently apply to loans to members, borrowing, in-house assets and acquisition of assets from members. In many instances the member faces a double jeopardy if there is an inter-relationship between the investment and the business. If the business fails, the retirement superannuation fund is also likely to fail.
- 1.13.7 ASFA does not support restrictions on overseas investments.
- 1.13.8 ASFA supports consistency in reporting investment performance. ASFA supports a move to reporting after tax performance.

POLICY PILLAR 2. Informed and Engaged Members

2.1 Choice of Fund & Portability

- 2.1.1 ASFA supports the objective that all Australians should be members of superannuation funds that are appropriate to their needs for retirement savings and which are cost effective.
- 2.1.2 To achieve this objective, ASFA supports a strong regulatory framework, consumer protection safeguards, and education campaigns (to complement the industry's ongoing educational programs) aimed at ensuring that people make informed choices about their superannuation. These campaigns should be funded by the Government.
- 2.1.3 ASFA supports a legislated structure which enables universal access to choice of fund. However we recognise that there will be some exceptions to this such as defined benefit and industry award arrangements.
- 2.1.4 ASFA supports minimum standards for default schemes which include:
- basic level of insurance cover; and
 - "an investment strategy for accumulation schemes which is appropriate to the time horizon (including pre and post retirement) of the members of the fund. This may involve different defaults for different cohorts of groups of members. This will allow trustees to take a "whole of life" approach to investment."
- 2.1.5 ASFA supports an industry-wide standard for product disclosure.
- 2.1.6 ASFA supports portability rules which harmonise with choice rules to minimise the multiplicity of accounts.
- 2.1.7 ASFA supports portability legislation that recognises the potential impact on equity between members and the need for appropriate identity verification.

2.2 Financial literacy

ASFA believes that effective financial literacy will be a key aspect of delivering to Australians a retirement system that responds to their needs and meets standards around adequacy. ASFA believes that:

- A tax deduction should be available for advice paid for on a fee for service basis. Alternatively a tax rebate could be available;
- All Australians should receive an annual projection (called a "Retirement Income Estimate") with their superannuation statement which gives them an indication of the income they can expect in retirement from both their superannuation and the relevant Age Pension. This should allow the member to assess how they are progressing against their retirement income goal. This projection should provide the maximum available information on possible retirement income;
- Industry wide standards should be introduced for all superannuation projections. Including income projections – with and without the Age Pension;
- The Government should fund initiatives to educate soon-to-be retirees about what they can expect in retirement and how they can influence the outcome; and
- ASFA supports the embedding of financial literacy education in school and adult education curricula.

2.3 Disclosure & Consumer Protection

- 2.3.1 ASFA believes that, to sustain the credibility of the superannuation industry, the guiding principle for disclosure requirements should be consumer protection i.e. the consumer should understand what they are paying for.
- 2.3.2 ASFA supports the following:
- disclosure for superannuation and retirement products should be subject to regulation developed in consultation with the industry to ensure that requirements are workable, practicable and cost effective;
 - consistency, comparability and ease of understanding for consumers should be the guiding principles for the development of such disclosure standards;

- disclosure standards should cover both the nature of information to be disclosed and the way in which it is presented;
- any standards developed should be subject to consumer testing against the principles set out above to facilitate good consumer decision-making;
- disclosure standards must be considered in the context of joining a fund, regular disclosure and at key decision-making points; and
- disclosure standards must take account of the fact that the superannuation system is mandatory and as such some employees do not choose to join a fund but their employer is compelled to enrol them in a fund.

2.3.3 ASFA is of the view that superannuation savings and products bought with superannuation savings at retirement should have the protections applied to retail products and not be classified as wholesale products requiring lesser disclosure or other protections regardless of the size of the amount.

2.3.4 ASFA supports the disclosure of the separate fees and costs applicable to the product for the provision of investment, administration, distribution and advice components so that the individual can clearly see what they are paying for.

2.3.5 ASFA supports the efforts to improve Australia's consumer policy framework. ASFA agrees that, although the current consumer policy framework is sound in many respects, some systemic impediments detract from its capacity to protect and empower consumers. To this end, ASFA welcomes recent efforts by COAG to provide for a nationally consistent consumer protection regime.

2.3.6 ASFA supports retaining the Australian Securities and Investments Commission (ASIC) as the primary consumer protection regulator for financial services. Financial services require a regulator that has the depth of specialist knowledge necessary to understand complex and highly technical issues. As well, financial services regulation is increasingly global and behaviour-driven rather than rule-driven. Importantly, the impact on consumers can be significant when things go wrong. ASFA considers that close co-operation between ASIC and APRA would minimise the risks of duplicated enforcement and inadvertent failure to fully regulate some financial activities.

2.4 Advice including Intra-Fund Advice

2.4.1 Financial advice for retirement planning should be affordable and broadly accessible to workers and retirees. The system should provide incentives to encourage people to seek financial advice.

2.4.2 Advice regarding a member's superannuation should be able to be received on a tax effective basis, whether that advice is delivered by the super fund or a third party. As such a tax deduction should be available for advice paid for on a fee for service basis. Alternatively a tax rebate could be available.

2.4.3 ASFA believes that Advisory fees should be paid on a fee-for-service basis, rather than in the form of commission.

2.4.4 ASFA believes that all advice provided to superannuation fund members on their superannuation products (including Intra-fund advice) should demonstrate a commitment to the following principles:

- acting in the member's best interest;
- accessibility;
- affordability; and
- transparency of remuneration.

2.4.5 ASFA is of the view that a demonstrable commitment to the principle of acting in the members **Best Interest** requires that the members interest in terms of achieving optimal retirement outcomes be placed in front of the advisors interest.

2.4.6 ASFA recognises that consumers would benefit from having access to Intra-fund advice when they need and want it. ASFA is committed to a principle of **Accessibility** which requires that:

- intra-fund advice should be generally available through superannuation trustees and financial planners who have the appropriate qualifications;
- members should be provided with access to any information they would reasonably require to assess the cost, performance and features of their superannuation interests; and
- the provision of intra-fund advice through websites and via telephone and other electronic means should be encouraged.

2.4.7 ASFA supports the principle of **Affordability** and recommends that:

- superannuation trustees and advisors should be able to limit intra-fund advice to a single issue or question; and
- the cost of any intra-fund advice must be reasonable and proportional considering the complexity of the advice, the member's financial situation, and the likely benefits to the member from following the advice.

2.4.8 ASFA believes that **Transparency** of remuneration, benefits and conflicts of interest is fundamental to the provision of intra-fund advice and recommends that, in relation to intra-fund advice, each member is informed of:

- the availability of an intra-fund advice service; and
- the structure of the remuneration of the adviser providing the intra-fund advice (whether the adviser is employed internally or externally), including who pays the advice, how they are paid (e.g. salary, commission, etc) and whether incentives are provided in respect of the provision of advice.

Members should be informed of the above where they have not previously been informed of the service, or on joining the fund, or where such a service is introduced; and in relation to the second bullet point above this should be repeated again at the time of the provision of intra-fund advice.

- ASFA believes that Advisory fees should be paid on a fee-for-service basis, rather than in the form of commission.

2.5 Comparing Superannuation Information

Where APRA publishes information on superannuation fund returns, ASFA recommends that:

- return statistics should be provided for a small number of the key (or largest) investment options within each product or division within the Regulated Superannuation Entity (RSE), rather than at RSE level;
- the return statistics be categorised according to asset allocation ranges; and the asset allocation (or proportion of growth assets) be shown for each key investment option displayed;
- a measure on the non-investment related costs of the fund be shown alongside the investment return;
- data be published in a timely fashion; and
- the rolling five year and 10 year returns be shown.

POLICY PILLAR 3. Industry Efficiency Gains

3.1 E-enabling the superannuation industry

3.1.1 ASFA supports the move towards electronic commerce with its inherent administration and cost efficiencies.

3.1.2 ASFA supports the early adoption across the superannuation industry of common messaging standards and protocols developed by the swimEC program.

3.1.3 ASFA has identified six key outcomes or goals for Ecommerce.

These outcomes are:

- To significantly increase the volume of superannuation contributions and related information delivered electronically by employers;
- To make the delivery of SG “choice” contributions information and money easier for all employers (this includes reducing the number of rejected contributions);
- A reduction in the number of multiple accounts;
- A reduction in the volume of accounts that become “lost”;
- To make rollovers between funds easier for members; and
- To improve the quality of data and to reduce the number of rejected contributions.

These are the key issues that need to be solved in order to increase processing efficiencies, improve service to employers and fund members, and reduce administration fees charged to fund members:

3.1.4 ASFA acknowledges the Federal Governments Electronic Clearing House for small business and calls the Federal Government to formulate a coherent strategy to address the main operational and process-related issues that create additional costs in the superannuation industry. In particular establishing minimum information and standardised data to be provided by employers about employees and contributions. Solving these issues will be a major step towards reducing the fees charged to superannuation members.

3.2 Lost Members Register

3.2.1 ASFA recommends the payment of employer contributions on a monthly basis as a means of obtaining better member data and thus reducing the growth in lost member numbers.

3.2.2 ASFA supports a pro-active use of the Lost Members Register by superannuation funds as a means of amalgamating member accounts.

3.2.3 ASFA believes The Superannuation Guarantee (Administration) Act (SG Act) should require an employer to be in possession of a minimum amount of information about an employee and the Superannuation Industry (Supervision) Act (SIS) should require a trustee of a superannuation fund to be in possession of a minimum set of information about a potential member before it may issue an interest in the fund. (Suggested minimum information should be the member’s full name, TFN, date of birth and an address for delivery of mandated disclosure documents.)

3.2.4 ASFA believes that in order to reduce the volume of lost members, to prevent future members becoming lost and to improve data integrity:

- the TFN must be able to be used by superannuation funds as the primary identifier for members; and
- superannuation funds must be able to use the TFN as a search key to collect the most up to date member information (addresses etc.). A central database is required as the “source of truth” for these searches.

3.2.5 ASFA believes that in order to improve data integrity, some level of compulsion should be placed on employers to provide certain “minimum” information when they are making compulsory SG contributions. For example this could be made a condition of meeting the SG requirements. This would include information such as TFN, address and date of birth.

POLICY PILLAR 4. Effective Governance and Regulation

4.1 Governance of superannuation funds

- 4.1.1 The current regulatory regime for superannuation governance uses a principle based approach, rather than a prescriptive approach, and ASFA believes that this approach should continue.
- 4.1.2 ASFA believes that in order to achieve effective governance of superannuation funds by trustees the following are required:
- a strong framework for effective governance (including removal of any impediments to effective governance);
 - trustees have the skills and competencies to discharge their fiduciary duty; and
 - the Regulators must be able to properly supervise the system.

Once these three elements are present, there is no need for an overly prescriptive approach and superannuation fund trustees should be left free to exercise their fiduciary duties under trust law to act in the best interest of their fund's members.

- 4.1.3 **Clear Conflict of Interest rules:** Trustees should have a clear and transparent policy in place to manage actual and perceived conflicts, and to avoid situations where conflicts of interest or conflicts of duty are so great that they cannot in practice be managed. The policy should include general principles to be used in managing different types of conflict which may arise from time to time. ASFA believes the relevant tests which trustees should apply should include, "how would members perceive such a conflict?", "does it compromise open discussion at the board table?" and "does it impact on the directors' duty to act in the best interest of the fund's members?"

4.2 Security of Superannuation

- 4.2.1 The supervision or regulation of superannuation needs to be strong and proactive to reflect the compulsory nature of super for most members and its role in the government's retirement incomes policy.
- 4.2.2 ASFA supports the development and implementation of fund governance frameworks by trustees who are responsible, and accountable, for the prudent management of the fund, including the assets held in trust, in the interest of the primary stakeholders of the fund members and their dependents.
- 4.2.3 Regulation should be efficient and cost effective and avoid any unnecessary duplication or overlap of functions between regulators.
- 4.2.4 ASFA believes that prudential supervision to ensure the safety of superannuation should be based on a genuine assessment of risks and the adoption of an appropriate and measured response to any problems identified, rather than the creation of additional layers of regulation for its own sake. Addressing any problems requires the creation of appropriate and targeted guidance as well as the presence of a pro-active regulator prepared to take action when members' benefits are genuinely at risk.
- 4.2.5 Licence requirements, including the fit and proper test, must not undermine the representative trustee structure.
- 4.2.6 ASFA supports public offer funds having the ability to meet their capital requirements by way of an approved guarantee. ASFA does not support any capital requirement for non-public offer funds, nor the use of the adequate resources standard to impose de facto capital requirements.
- 4.2.7 ASFA believes the regulators must exercise their powers in a transparent and accountable fashion.

4.3 Superannuation Guarantee

- 4.3.1 ASFA supports employers being required to pay contributions monthly and for employers being required to notify employees that contributions have been made. Where a SG payment is made within 30 days after the due date, ASFA supports this payment offsetting the SG charge for that quarter.

- 4.3.2 ASFA supports mechanisms that encourage employers to pay contributions before deadline and employers not prepared to pay by the deadline being subject to the full force of the law.
- 4.3.3 ASFA supports a requirement that the ATO inform employees on the status of any recovery action they are undertaking.
- 4.3.4 ASFA does not support any proposal to opt out of the Superannuation Guarantee as this:
- has implications for national savings;
 - would affect the integrity of the retirement income system; and
 - it is doubtful whether low income earners would have any assurance that they would actually receive an appropriate offsetting increase in disposable income.
- 4.3.5 ASFA supports streamlined processes for transferring SG credits from the ATO to superannuation providers.
- 4.3.6 Now that mandated contributions have reached 9 percent of salary, and because the introduction of choice and portability have removed the concerns raised about finding a suitable fund to accept smaller contributions, ASFA supports the removal of the provision that excludes SG to those earning under \$450 per month from a single employer. This will particularly assist those in casual and part-time work (predominately women).
- 4.3.7 ASFA supports the extension of the SG entitlements to wage payments made after the cessation of employment, eg following legal action.
- 4.3.8 ASFA supports the calculation of SG entitlements based on Ordinary Time Earnings (OTE) before allowance is made for any superannuation contributions which are salary sacrificed.
- 4.3.9 ASFA supports the extension of compulsory superannuation to the self employed.