

CORPORATE SUPERANNUATION ASSOCIATION Inc.

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Insurance in Superannuation Working Group
Project Management Office

By e-mail to ISWG-PMO@kpmg.com.au

Dear Sirs

ISWG CONSULTATION PAPER: INSURANCE IN SUPERANNUATION CODE OF PRACTICE

We refer to the invitation to comment on the proposals set out in the Draft Code of Practice.

The Corporate Superannuation Association

Established in 1997, the Association is the representative body for large corporate not-for-profit superannuation funds and their employer-sponsors. The Association now represents a total of 23 funds controlling \$49 billion in member funds, held in a total of some 275,000 individual accounts. Of these funds, 14 have outsourced trustee services but maintain significant employer interest through policy committees. In general, these funds are sponsored by corporate employers, with membership restricted to employees from the same holding company group, but we also include in our membership two multi-employer funds with similar employer involvement and focus. A number of our funds have defined benefit divisions.

Size, in terms of funds under management, ranges from \$17 billion to \$64 million as at 30 June 2016. Some of the smaller funds have their place in the pension fund structures of international groups, hence play an important role in the care and welfare of the worldwide workforces of these groups.

We support the Working Group's efforts in compiling the Draft Code. However, our funds would wish to see significantly reduced prescription, in respect of time limits and declared premium caps, before they would be willing to support the proposed Code.

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Particular features of our funds

Our funds have certain distinguishing features that affect the insurance arrangements for their members.

- They tend to have fewer members, with higher balances per member, than in, for example, a typical industry fund or retail fund.
- The workforces tend to have a larger number of permanent employees who are supported on a regular rather than an intermittent basis. The behaviour of the workforce is relatively predictable. It is easier for the employer to consider the circumstances of employees and the likelihood of duplicate arrangements is reduced.
- The insurance arrangements are tailored to the workforce. In a fund providing for employees of a manufacturing entity, or a mining entity, or in shipping, in delivery services, telecommunications or in education, the needs are quite specialized. Insurance arrangements may therefore be expensive, but necessarily so, given the employees' particular exposure, and if a more standardized approach were to be adopted, the employees would lose out on cover that meets their particular risks.
- Insurance is often salary linked, so levels of insurance are proportional to the members' salary and contributions.
- A number of our funds offer income protection insurance at 75% of salary as a default offering. At older ages this is necessarily expensive and can by itself exceed 1% of salary as a cost. It is suggested that any capping recommendations should exclude income protection premiums.
- As these funds have a strong connection to employers, the funds are generally advised of cessation of employment and insurance status changes as result of this. The ongoing insurance premiums are maintained as a result of employer knowledge of employment status rather than simply being contribution linked.

Matters for comment

We have highlighted matters of particular concern to our funds.

Adoption of the Code

It is in question whether our trustees can voluntarily adopt the Code and continue to satisfy their fiduciary duties under trust law. We refer to the submission of the Law Council of Australia in which options are considered to remedy this situation.

Once this threshold issue has been addressed, our funds would wish to see significant adjustments to the Draft.

A major recommendation would be for the Code itself to be less prescriptive as to premium capping and time limits for trustee actions. Further detail of difficulties in these areas is provided below. The Consultation Paper accompanying the Draft Code refers to the development of Good Practice Guidance for trustees (section B2). We recommend that the capping detail, along with recommendations about adherence and reasons for no-adherence, be provided in the Good Practice Guidance, along with default time limits and guidance for trustees regarding adherence to these and regarding circumstances of variance from time limits. We recommend closer adherence to the example of the Life Insurance and General Insurance Codes of Practice where the Codes are principles based and include significant flexibility.

Premium capping levels

Tailored arrangements as outlined above come at a cost, and we support flexibility in the Code to allow for variation to the premium limits proposed, to ensure that members are provided for appropriately. Employer subsidies should be taken into account.

The proposed levels of caps provided in the Draft Code are, in our view, inadequate for many members even where the occupations are not hazardous. In particular, where income

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protection insurance is provided, the premiums for many members are certainly going to exceed the stated limits. We support the exclusion of the income protection element of any premium from any general capping levels.

We consider that to state absolute caps in the Code itself, with potential variation stated as a minority arrangement subject to regulatory approval, presents a very poor communication to fund members. In a number of funds, the adoption of the stated caps is going to be an exception if it occurs at all, with the majority arrangement, or the arrangement for large groups of members, being loaded for occupation specific risks. Nevertheless, the current Draft Code proposes to present what is the norm for these funds as an exceptional case at paragraph 4.10. Members are going to be very confused by the initial capping statement at draft paragraph 4.8, and the presentation of the information about specific risk treatment is going to look alarming. More appropriate treatment would be to present information that their specific risks are being catered for in a group policy negotiated on far more favourable terms than that available to an individual insured person. For the above reasons we recommend that the Code refer to recommended caps as set out in the proposed Good Practice Guide, which should provide for a balanced treatment of specific risks and their premiums. A Good Practice Guide, with suitable discussion of variations from prescribed limits, should obviate the need for detailed regulator or Code Authority involvement in the variation processes.

Hazardous occupations cover

We have concerns about the proposal (4.14) that if cover for hazardous occupations is not economic, the risks should not be covered. We consider that there is an obligation for employers and trustees to arrange cover where an occupation is hazardous. If the trustee cannot organize the cover, the individual will not be able to, and will be left exposed.

Cancellation of cover after 13 months

We recognise the importance of avoiding erosion of balances, but we believe that the proposed arrangements should be made flexible to take into account situations such as where a person is on extended leave and there has been an unnotified address change. Where certain benefits promised under the Trust Deed are insured, there will be fiduciary concerns with cancellation without due consideration of the employment circumstances. A general exemption from this proposed automatic cancellation should apply for standard employer sponsored funds or other funds where the fund is as a matter of practice notified of cessation of employment.

Claims handling

The proposed process sets out tight and rigid time frames for the trustee. We are concerned about the rigidity and urge that flexibility be provided. The proposed timeframes would conflict with robust processes for review of material. The review of claims is generally carried out by bodies that do not necessarily meet daily or weekly, so rigid time frames will need adjustment to circumstances. Where there is a need to await information from an insurer, the trustee does not have immediate control of the time frame. In our view this is another area where detailed time constraints for processes should be relocated to the proposed Good Practice Guide. The guide should also set out parameters for variation of timeframes depending on circumstances and actions of external parties.

Trustee responsibilities and timing

Whilst it is appropriate for the trustee to oversee the claims process with an insurer and to provide an avenue of communications to the member, we would like to clarify that the trustee and the insurer each have their responsibilities and that the trustee cannot be held responsible for all acts of the insurer. In particular, negotiations with insurers may make it difficult to comply with specified time constraints.

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Refunds

We are concerned about the proposals to rectify multiple coverage at the time of a claim by returning the premiums on the overlap policies. We believe this may involve trustees in losses that cannot be recovered, including administration and other fees. We support efforts to educate members and obtain information about multiple coverage at the start of the process rather than to institute a cumbersome and expensive process of unraveling. The use of SuperMatch could be adapted to this purpose. Furthermore, the refund process will benefit only those who have claimed and would not assist those who have not made claims but have paid multiple premiums. Focus on avoiding multiple coverage at the outset by the proposed methods would produce positive results without the need for complex calculation of refunds due.

Please contact us by return e-mail if you require further information.

Yours faithfully



Bruce McBain
Chief Executive Officer
Corporate Super Association