From:	Brett Grant
To:	AU-FMIswg-PMO
Subject:	Response to Consultation paper on "Insurance in Superannuation Code of Practice"
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Attachments:	Response to ISWG.docx

Dear ISWG Project office,

Please find attached comments on behalf of Equipsuper to the Consultation paper.

Thanks and regards

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EQUIPSUPER SUBMISSION TO THE ISWG – 20 October 2017

Scope of the Code

How should the ISWG ensure that all trustees are bound by the Code?

The key to ensuring that all trustees are bound by the Code is by taking "on board" industry feedback so that the Code is flexible enough to allow all funds to meet their members' needs and to not unnecessarily be an inflexible prescriptive Code. This approach should ensure that all trustees voluntarily sign up to the Code (which could then include agreed penalties for non-adherence to the Code).

What are the practical implications of the transition arrangements?

There will be some aspects of the transition, as proposed, which are very difficult to implement within the intended one year transition period. This is especially where these require operational and systems changes that would ordinarily be implemented to automate processes. The requirement to reset existing policies within a set timeframe (e.g. the two year period) may be disadvantageous to members in some funds. Consequently, ensuring that the Code contains flexibility within the transition arrangements such as an implementation coinciding with when an insurance contract expires would be more practical. There are also many - yet to be known - cost and complexity considerations that will have a practical impact on many funds such as resourcing, communications with members, insurance policy renegotiations, website disclosures, etc. and so longer lead times will be preferable in order to ensure the Code can be followed from a practical perspective.

What flags will be required to be built into a trustee's (or administrator's) system as a result of the Code requirements (for example, whether a member is an Automatic Insurance Member, whether they have chosen to retain their cover even when not making contributions and whether they require assistance as a vulnerable consumer?

There could be many flags that are required to be built by the administrator (or a trustee office) the following is possible examples of some of these:

- Flags for searching for member's other insurance to prevent unnecessary premiums (which could face a number of significant complications such as where members work for multiple employers and are an active member of two or more funds),
- Flags to ensure there is a process for tracking when a member's contributions are nil or low and the tracking of communications to them (there is a problem with defining what low is – perhaps this should be a function of the members' premiums e.g. for low contributions the premium isn't more than 10% of the last years' contribution) and also maintaining records that certain members require insurance even though their contributions are nil or low),
- Flags for ensuring the timing and process for providing communications to members on their cover being removed after 13 months and as well as discerning which members are Automatic Insurance members from those that actively selected the default level of insurance cover,
- There may be significant difficulty determining and flagging whether a member is a vulnerable consumer (and therefore receives assistance) and also keeping this information but not breaching privacy requirements.

There will likely be other flags or processes needed which will increase costs which in "for profit of member" funds reduces member's retirement savings and so changes required by the Code need to balance the costs that making these changes require. This is also an important consideration with the intent that Employers must provide more information about employees when they join the fund to better align their risk characteristics as this may not be easily achievable without significant cost to Employers.

<u>Premium Limits</u>

Are there alternative proposals for setting maximum premium levels that the ISWG should consider?

Perhaps measuring membership period and contribution levels to premium levels should be a consideration as part of setting maximum premiums. Also where data exists, having regard to the likely needs of a member (e.g. 23 year single versus one at the same age with several dependants) in the default level of insurance on joining a fund is likely to be a better way than based purely on age in order to ensure insurance needs are met. The changes in the Code may also impact insurers premiums and profit margins such that prices for

members become polarised (i.e. lower risk members prices go down and higher risk members go up) and then lead to underinsurance which the Government may also see as undesirable.

Are there particular measures of earnings that the ISWG should include in Good Practice Guidance?

Funds should have sufficient flexibility to utilise an earnings measure that is most appropriate for their membership.

For superannuation funds - how would you approach design principles, including the premium limits? Do your current premiums fall within or outside of the maximum limits provided? (Note that this information will be treated confidentially).

In terms of design principles, the future direction would appear to be headed towards insurance defaults that are set to best fit a members' personal circumstances. This would not simply be based on an individuals' age but many other factors that would ensure defaults are most likely to be suitable. However this would require that funds are able, and actually do, obtain much more data about its members than it currently receives. This increased sophistication would also enable the insurers (and their underwriters) to better price insurance at an individual level as they will be more cognisant of the risks at an individual level. At this time, however, the proposed premium limits do, for some of our members, fall outside the proposed level in the Code and our preference would be to have sufficient time for the industry to transition to the Code in a sensible way – which includes reinsurers which are typically based off-shore.

What impacts are the premium limits likely to have on benefit design and premiums? Are there financial impacts that the ISWG should take into account?

The question regarding impacts on premium limits is best answered by insurers but our belief would be that in a group insurance program the risks for members are often assessed at a macro level based on a fund's experience and so an enforced reduction in terms of premiums in one area is likely to be balanced by an increase in premiums in another area. Therefore the financial impacts of a Code (e.g. by being prescriptive rather than principals based) is

likely to result in increased systemic costs which might result in reductions in members' retirement benefits.

To what extent will the premium limits achieve the goal of targeting inappropriate account erosion for low income earners, particularly women and younger members?

At this stage we are unable to meaningfully determine how a premium limit will achieve the aims of the Code in terms of assisting low income earners with account erosion, but we are concerned that the costs of implementing the change may outweigh the benefits to the members impacted by the change as proposed in the Code. Of course changes will benefit future members' outcomes as long as they can be introduced in a timely and cost effective way.

What are the likely impacts of a trustee reducing cover for some segments of its membership in order to reduce premiums? How would the trustee manage a member who wanted to retain their original cover? Could this member remain an Automatic Insurance Member?

The impacts of reducing cover for some segments of the membership (assuming a normal claims experience) would result in most of these particular members having larger retirement benefits but also the few that make claims and are entitled to an insurance payment (e.g. for Death and Total & Permanent Disability) to receive reduced insurance amounts that might be insufficient for their needs. Our preference for members who wish to retain cover would be to seek the Insurer's agreement to retain the cover and we would prefer that they not be classified as an Automatic Insurance Member (AIM) as they have exercised a choice and any member who exercises an insurance choice should not be an AIM and subjected to Code rules that may be detrimental to their wishes (such as premium caps and removal of cover after 13 months).

<u>Cancellation and Cessation of Cover</u>

What are your views on the proposed cessation and reinstatement mechanisms?

We very strongly prefer that the decision on the cessation of cover is only made by the member and so their explicit consent is necessary for this to be actioned. We are agreeable to funds being required to make members aware

that insurance can erode their benefits and send them regular messages and especially where the trustee considers it prudent for a member to consider their insurance cover and premiums in light of their personal circumstances. We think that there are likely to be considerable practical difficulties (that aren't clearly articulated within the Code) with the reinstatement of cover (i.e. after 60 days) and we believe (although presently we do not know) that Insurers will likely seek to require underwriting in certain circumstances. The reinstatement provisions could result in a detriment to either an insurer or a member and so we strongly prefer cover to be continuous for members even if a requirement is that it be at a reduced level.

Duplicate insurance cover

What more could the Code do more to help members identify whether they have duplicate insurance, and determine whether this is appropriate for them?

We believe this is best solved by legislation that provides for a protocol for automatic consolidation of members' superannuation accounts via a matching of their tax file number.

Helping members make informed decisions

Which parts of the Code require particular attention for consumer testing?

We believe that asking members and consumers how they would feel about automatic cover being removed and the possible disastrous impact this could have on their lives. It is also worth consumer testing whether members would be prepared to provide their super fund with considerably more data in order to ensure that the insurance defaults created for them would best fit their circumstances.

How could the Key Facts Sheet template better assist members to understand and compare their cover?

The Key Facts Sheet should be designed so that all funds have a consistent presentation and that the critical items can be easily derived from, and are completely aligned to, the details contained in a funds Product Disclosure Statement(s) {PDS}. However it is likely that a large number of members in default arrangements (i.e. including insurance) do not read their PDS.

Do the communication requirements in the Code achieve the right balance between prescription and trustee flexibility?

Our view is that the Code is too prescriptive on communication items and methods of engagement with members (and also in other areas) and rather than setting limits, the Code should be based on clear principles aligned to the outcomes the Code was established to achieve so that funds can address these requirements in a way that is most sensible for their business.

What further steps could be taken to engage members who are making no contributions or low or infrequent contributions?

The government should consider undertaking an active campaign (e.g. by way of media advertising) to encourage the community to make superannuation contributions for their retirement, to engage regularly with their super fund and understand the insurance within their super account. If successful in gaining action from the community then this could result in reductions in pension payments and other government benefit payments in the future.

Claims handling

What are the practical implications of the obligations that are placed on trustees? How can any practical difficulties be overcome in a way that improves members' experience of the claims process?

The requirements and timeframes in the Code will require changes to systems, processes and resourcing which come at a cost to members retirement savings and therefore making the Code principals based and a guidance document (rather than a "black letter" Code) will likely bring about a financially better outcome for members rather than making actions prescriptive and subject to compliance. It would be better, in our view, to have the time requirements and other limits in the Code as guidelines with funds required to report their adherence to the Code. Therefore while adherence may not be achievable with 100% reliability by all within the superannuation industry, the funds that are able to achieve better results will be able to market these results as advantages and indicators of superior performance in comparison to other funds. This will create competition in the market place and a differentiation in the claims handling processes. The result would be that funds would respond to best position their fund and how this undertaken cannot be easily covered

within the Code. Making competition active between funds is the best way to improve a member's experience of the claims process.

Will the requirements at section 6.28 of the Code to provide a person claiming with information about a decline (including all documents obtained during the assessment) and the ability to provide further information in all cases cause delays and/or cost to the claims process? If there are concerns with these requirements, can specific examples be provided of the difficulties these requirements cause?

In our opinion the main problem with section 6.28 is that the time requirements may not be appropriate for all claims made and this section does not seem to contemplate the practical realities that on many occasions, trustees ask questions of insurers on receipt of an intent to decline a claim in order to assess, determine and seek to understand the insurer's decision. These decline decisions are usually reviewed by senior staff (and may also include fund directors and clearly meeting and reviewing claims in 15 days is very difficult under current operational models. That said, the trustee always acts in the collective best interests of its membership and including a time restriction may be counterproductive to the review process which should ensure that a proper, prudent and timely approach is adopted to all claims made. In addition the trustee also cannot act as an "advocate" on a particular claim for a member (and thereby seemingly be attempting to influence the insurer to accept a claim) but rather ask all necessary questions to ensure that the decision reached is a fair and reasonable one. The trustee's processes should be consistent for all claims made and not changed on the view of whether a claim has a "reasonable prospect of success." It also seems unusual that while section 6.28 has time requirements, section 6.29 does not and as stated in the previous question, reporting on adherence to the Code may be better than striving for a "binding" result.

What are the implications of the requirements on trustees to oversee and review ongoing income protection payments?

The time restrictions of 5 days of raising concerns with the insurer seems very onerous and difficult to achieve in practise.

<u>Vulnerable members</u>

Does the Code require more prescription as to how trustees will support vulnerable consumers?

If the Code requires trustees to support vulnerable consumers then it is necessary for the Code to define what vulnerable consumers are. Realistically most consumers when making claims are vulnerable and so this is where most effort should be applied to ensure a fund's claims process works with empathy and timeliness.

What more can be done to ensure that members who are granted release of funds for terminal illness do not lose their insurance cover?

Legislation should provide that a member who is granted a terminal illness payment (TIP) which does not at that time include a claim and payment under their insurance cover, then these members automatically have two years of insurance premiums held from their TIP and paid to the insurer so that they do not lose their insurance cover.

Premium adjustments

Are the premium adjustment arrangements sufficiently transparent?

No

What further detail could the Code include?

Describe in principle how the premium adjustments are passed back to members.

Promoting our insurance cover and changes to cover

What are the practical implications of the Code obligations for trustees?

These matters should be able to be achieved through clear communications to members but the time requirements for doing so may be too rigid.

Refunds

What are the practical and administrative implications of the refund requirements provided?

There are significant administrative and practical problems with identifying duplicate cover, communicating with members with no contributions and removing cover for members after thirteen months and this area is probably the most problematic part of the Code in terms of systems and correcting what would otherwise be an automated process. The concept of refunds for up to 6 years might cut across multiple insurers and administrators and will be very difficult to administer. It is very difficult for providers to answer the question of costs but it will almost certainly outweigh the amounts refunded. Trustees will need to ensure it can collect refunds from insurers which aren't likely to be contained in current policies. The provision to provide refunds back to when a member is eligible to claim is also going to be administratively difficult. We consider this area needs more investigation by the ISWG such as, a cost to benefit analysis, to ensure the overall system costs aren't greater than the refunds that would be made. If this is the case then a different approach would be more sensible.

Are there any issues with the maximum time limits for the duration of refunds?

The issues with maximum time limits is really the practical difficulties and operational complexities of achieving this result.

For superannuation funds – what are your current practices for refunding premiums, and the duration of any refunds?

This issue, in an industry fund for larger employers, is of such a small number that we would investigate where a complaint was made and ensure the member was well treated. Those involved in complaints advised there have been very few refunds of insurance premiums overcharged made in the last few years.

<u>Staff and independent service providers</u>

Do the standards for training and monitoring staff require further detail?

The Code is sufficient and our view is less prescription is preferred with a statement of principles that are followed being a better approach.

What are the practical implications of requiring trustees to ensure Independent Service Providers comply with the Code?

Trustees would need to renegotiate their Independent Service Provider contracts which would likely lead to an increased cost and the Code contains unnecessarily prescriptive requirements that inadvertently impact on commercial aspects of ISP arrangements that aren't preferred.

Enquiries and complaints

Do the processes for making enquiries and making complaints require further detail?

The Code should align with a fund's other required enquiries and complaints processes and also the new Australian Financial Complaints Authority requirements (once it is established).

Is the governance framework appropriate, taking into account ASIC's requirements for approval of the Code, and the governance provided by existing financial services codes?

We consider that Code governance framework is an adequate one to establish the code administrator but we consider it might benefit from a wider panel as the workload seems considerable for three people. It would also be important to understand how the code administrator roles would be appointed and removed, as part of the governance framework, and especially how the independent chair would be appointed and removed.