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12 July 2018

Mr Simon Daley
Solicitor Assisting the Royal Commission

Via email to: FSRCSolicitor@royalcommission.gov.au

Dear Mr Daley,

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry ("the Commission")

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to your letter dated 21 June 2018.

This submission addresses each of the matters identified in your letter using your enumeration.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its $2.6 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing over 90 per cent of the 14.8 million Australians with superannuation.

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ASFA Submission to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

1. Board governance of corporate RSE licensees, including:

a. board composition and the appointment, renewal and tenure of directors;

b. directors' skills and experience;

c. board remuneration and the assessment of board performance

Regulatory framework

The Stronger Super legislation package implemented between 2011 and 2013 established a regulatory framework to improve superannuation governance arrangements. On 8 September 2012 the *Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Act 2012* was granted Royal Assent. Amongst other things, the Act introduced a power for the prudential regulator, APRA, to make prudential standards in relation to superannuation trustees.

ASFA was broadly supportive of the changes:

"*ASFA supports the enhancement of trustee obligations, especially with respect to those trustees who offer a MySuper product and APRA being able to make prudential standards.*"[1]

Following the passing of the enabling legislation, APRA *Prudential Standard SPS 510 Governance* (SPS 510) and *Prudential Practice Guide SPG 510 Governance* (SPG 510) were issued by APRA as part of their broader suite of prudential requirements, commencing 1 July 2013.

Enhanced Prudential Standards for Board Governance

In 2015, APRA consulted with stakeholders on proposed amendments to SPS 510 and SPG 510.

ASFA noted broad comfort with the proposed amendments. In relation to specific areas relevant to the Royal Commission's enquiry, our submissions to APRA are outlined below.[2]

[1] ASFA, submission to the Parliamentary Joint Committee on Corporations and Financial Services (PJC) Inquiry into the *Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012,* 6 March 2012

[2] ASFA, submission to APRA, *Governance arrangements for RSE licensees: Draft Prudential Standards SPS 510 and SPS 512; Draft Prudential Practice Guides SPG 510 and SPG 512*, 23 October 2015

SPS 510

- **ASFA supported** the requirement for RSE licensees to establish a governance framework that includes, at a minimum:
    - the Board's policy on the size and composition of the Board;
    - the Board's renewal policy;
    - the Board's policy on nomination, appointment and removal of directors;
    - the Board's policy on director tenure, including maximum tenure periods.
- **ASFA considered** that every trustee director should be nominated and appointed through a formal and transparent process based on competency. The individual should meet certain minimum standards set by the trustee board prior to being appointed, and the trustee board should be actively involved in the nomination/appointment process to ensure that the new director has the relevant experience and skill set required by the board.
- **ASFA supported** additions to the requirement to annually assess Board performance.
- **ASFA supported** the addition of new paragraphs regarding the requirement to establish and implement policies and processes for the nomination, appointment and removal of directors.
- **ASFA supported** the requirement for RSE licensees to have policies and processes in place that deal with the length of the directors' terms as well as the maximum number of terms that can be served.
- **ASFA considered** that an appropriate maximum appointment term for trustee directors would fall somewhere in the range of 9 to 12 years.

SPG 510

- **ASFA supported** guidance that it would be prudent practice for RSE licensees to periodically review the total number of directors on the Board and assess whether its size supports the effective functioning and decision-making of the Board.
- **ASFA endorsed** the need for RSE licensees to have boards of manageable size in order to ensure that they operate effectively, with the optimal board size somewhere between 6 and 12 directors.
- **ASFA considered** that the guidance should be amended to acknowledge that RSE licensees need the flexibility to determine that a larger number of directors may be valuable given their specific circumstances.

On 3 November 2016, following the completion of their consultation process, APRA wrote to RSE licensees to inform them of changes to SPS 510 and SPG 510 that "include requiring RSE licensees to have in place a governance framework which sets out policies and procedures to support effective governance practices. Revised SPS 510 also requires RSE licensees to have in place policies on appointing, nominating and removing directors, director tenure and board size."

APRA also noted that "SPG 510 clarifies APRA's expectations regarding governance practices, including the new requirements set out in SPS 510. Specifically, SPG 510 now includes further guidance on better practices in relation to board renewal and processes relating to the nomination, appointment and removal of directors." [3]

The changes were contained in a revised SPS 510 and SPG 510 commencing 1 July 2017, however APRA's expectation was for RSE Licensees to consider the guidance in SPG 510 immediately.[4] The revised SPS 510 requires the following of RSE licensee Boards:

- the Board must have a governance framework which includes, at a minimum, the Board's charter (or equivalent document) and policies and processes that achieve appropriate skills, structure and composition of the Board;
- the Board must have a written policy which sets out requirements relating to the nomination, appointment and removal of directors that support appropriate Board composition and renewal on an ongoing basis;
- a Board Remuneration Committee must be established and the RSE licensee must have a Remuneration Policy that aligns remuneration and risk management.

Board Governance Thematic Review

On 17 May 2018 APRA wrote to RSE licensees to inform them as to the outcomes of APRA's board governance thematic review, which commenced in late 2016 and continued over the course of 2017, "to assess how the superannuation industry has responded to SPS 510 and identify better practices and opportunities for improvement in targeted areas of governance…….The review particularly focussed on board appointment and renewal policies and practices, and board performance assessment approaches."

APRA indicated that it expects all RSE licensee boards to review their existing governance arrangement against the practices outlined in the letter, noting that as part of its post-implementation review of the superannuation prudential framework, APRA intends to review and amend the framework where appropriate to reflect the findings of the thematic review.[5]

ASFA intends to contribute to APRA's consultation in this regard. APRA has indicated they expect to release the outcomes of the post-implementation review by early 2019.[6]

Productivity Commission Draft Report

In a draft report released 29 May 2018, *Superannuation: Assessing Efficiency and Competitiveness*, the Productivity Commission recommended that the Australian Government should legislate to:

- require trustees of all superannuation funds to use and disclose a process to assess, at least annually, their board's performance relative to its objectives and the performance of individual directors

[3] APRA, letter to all RSE licensees, *Governance arrangements for RSE licensees*, 3 November 2016
[4] APRA, media release, *APRA releases enhanced governance requirements for superannuation trustees*, 3 November 2016
[5] APRA, letter to all RSE licensees, *Board Governance Thematic Review*, 17 May 2018
[6] APRA, Discussion Paper, *Post-implementation review of APRA's superannuation prudential framework*, 23 May 2018

- require all trustee boards to maintain a skills matrix and annually publish a consolidated summary of it, along with the skills of each trustee director
- require trustees to have and disclose a process to seek external third party evaluation of the performance of the board (including its committees and individual trustee directors) and capability (against the skills matrix) at least every three years. The evaluation should consider whether the matrix sufficiently captures the skills that the board needs (and will need in the future) to meet its objectives, and highlight any capability gaps. APRA should be provided with the outcomes of such evaluations as soon as they have been completed
- remove legislative restrictions on the ability of superannuation funds to appoint independent directors to trustee boards (with or without explicit approval from APRA).[7]

ASFA notes that most elements of the Productivity Commission's draft recommendation 5 are considered within the existing regulatory framework – mainly through APRA's recently enhanced prudential standards. Legislative change is therefore not required to achieve all of the outcomes sought by the Productivity Commission.[8]

2. Matters that may give rise to conflicts of interest, including:

a. directors who hold multiple directorships across related entities;

b. potential lack of independence of directors;

c. RSE licensees, or related parties of RSE licensees, engaging related parties for the provision of services to the fund.

Regulatory Framework

The *Superannuation Industry (Supervision) Act 1993* (SIS Act) prescribes trustee covenants that are included in the governing rules of a registrable superannuation entity. The particular covenants relating to conflicts of interest require the following of trustee directors:

> where there is a conflict between the duties of the trustee to the beneficiaries, or the interests of the beneficiaries, and the duties of the trustee to any other person or the interests of the trustee or an associate of the trustee:
>
> - to give priority to the duties to and interests of the beneficiaries over the duties to and interests of other persons; and
> - to ensure that the duties to the beneficiaries are met despite the conflict; and
> - to ensure that the interests of the beneficiaries are not adversely affected by the conflict; and
> - to comply with the prudential standards in relation to conflicts.[9]

[7] Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness*, draft recommendation 5, April 2018
[8] ASFA, submission to the Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness*, (to be lodged) 13 July 2018
[9] *Superannuation Industry (Supervision) Act 1993*, Part 6 Section 52(2)(d)

APRA *Prudential Standard SPS 510 Governance* requires that an RSE licensee's governance framework must, at a minimum, include the RSE licensee's policies and processes relating to the management of conflicts.

APRA *Prudential Standard SPS 521 Conflicts of Interest "*establishes requirements for the identification, avoidance and management of conflicts of duty and interest by an RSE licensee. These requirements are essential to ensure that an RSE licensee and its responsible persons meet legislative obligations in Part 6 of the *Superannuation Industry (Supervision) Act 1993*".[10]

Of course, the requirements of the SIS Act and APRA's Prudential Standards are overlaid on the statutory and fiduciary duties imposed on directors by the *Corporations Act 2001* and the common law.

Independent Directors

The *Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017* (the Bill) was introduced into the Senate on 14 September 2017 and referred to the Senate Economics Legislation Committee for inquiry and report. ASFA lodged a submission on 29 September 2017 and appeared before the Committee on 10 October 2017. The Committee issued its report on 23 October 2017 and the Bill remains in the Senate.

An earlier version of the Bill, the *Superannuation Legislation Amendment (Trustee Governance) Bill 2015*, was introduced into Parliament in 2015 and referred to the Senate Economics Legislation Committee. On 14 October 2015 ASFA submitted to the Committee in relation to that Bill.

The Bill seeks to amend the *Superannuation Industry (Supervision) Act 1993* to require RSE licensees to have at least one-third independent directors and for the Chair of the Board of directors to be one of these independent directors.

In ASFA's submission to the Senate Economics Legislation Committee on the Bill, ASFA supported requiring RSE licensees of all APRA regulated superannuation funds to have at least one-third independent directors, with one of these directors serving as an independent chair, subject to a number of provisos. These include that the definition of independence is appropriate, that APRA's role is to review trustee determinations of independence (rather than make primary determinations themselves), and that the equal representation arrangements are retained for the remainder of the board together with the two-thirds voting rule.[11]

ASFA also recommended the adoption of a principles based approach to determining independence within the legislation, modelled off the ASX Corporate Governance Principles applying to ASX listed companies. The RSE licensee would determine independence with reference to legislative criteria, however with the overriding obligation to satisfy itself as to the individual's capacity to bring independent judgement to board issues and comply with the Part 6 trustee covenants.[12]

[10] APRA, Prudential Standard SPS 521, Conflicts of Interest
[11] Superannuation Industry (Supervision) Regulations 1994, regulation 4.08
[12] ASFA, submission to the Senate Economics Legislation Committee inquiry into the *Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017,* 29 September 2017

Directors who hold multiple directorships across related entities

The Bill precludes a director from sitting on the board of multiple related RSEs under the same financial conglomerate group as an independent director, without approval from APRA. RSE licensees can apply to APRA for a determination that the director is capable of exercising independent judgement in the circumstances (on the grounds that the RSEs are not in competition with each other).

ASFA has recommended the definition of "independent director" in the Bill be amended to enable a director to sit on the board of multiple related RSEs under the same financial conglomerate group as an independent director, rather than RSE licensees having to rely on the uncertainty of an APRA determination.

This is an appropriate amendment given that there are no limitations proposed in the Bill on an individual holding office as director on multiple unrelated RSE licensees, even where the RSE licensees may be in competition with each other.

Prior to appointing an independent director, the board would need to satisfy itself as to the capacity of the individual to exercise independent judgement, where multiple directorships were held. APRA would regulate these determinations.[13]

RSE licensees, or related parties of RSE licensees, engaging related parties for the provision of services to the fund

On 19 March 2015, APRA wrote to all RSE licensees to inform them of the outcomes of a thematic review to assess how the superannuation industry was implementing SPS 521 requirements relating to managing conflicts of interest. APRA noted that "there was a lack of consistency across industry in relation to RSE licensees identifying and managing conflicts when dealing with intra-group service and product providers and related parties."[14]

On 29 May 2018, APRA wrote to all RSE licensees to inform them of the outcomes of a thematic review specifically examining the RSE licensees' management and governance of related party arrangements. APRA note that "the thematic review was prompted by APRA's observations of weaknesses in how some RSE licensees govern and manage aspects of their outsourced arrangements with related party service providers."

In their review, "APRA found that for the sampled RSE licensees there have been improvements in the governance and management of related party arrangements since the conflicts of interest thematic review, with a number demonstrating effective approaches to managing related party service provider arrangements."

APRA also identified a number of areas for improvement that should be considered by all RSE licensees.[15]

[13] ASFA, submission to the Senate Economics Legislation Committee inquiry into the *Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017,* 29 September 2017
[14] APRA, letter to all RSE licensees, *Managing conflicts of interest in superannuation*, 19 March 2015
[15] APRA, letter to RSE licensees, *Related party arrangements thematic review*, 29 May 2018

In a 2016 submission to the Productivity Commission, ASFA observed,

"A key initiative to ensure trustees are operating in the best interests of members is a comprehensive conflicts regime. Where conflicts are properly managed, integration can provide efficiency and cost benefits of economies of scale and scope, whilst minimising the effect of conflicts.

Conflicts of interest within superannuation funds are heavily regulated by APRA. In 2013, APRA introduced new standards in the superannuation industry, including Prudential Standard *SPS 521 Conflicts of Interest* (SPS 521), which took effect on 1 July 2013.

The regulatory regime to manage conflicts of interest in the system is largely working. The prudential regulator APRA is driving funds to appropriately address any competitive issues related to horizontal and vertical integration. This ongoing regulatory review process will continue."[16]

3. Use of funds by RSE licensees, including for marketing and sponsorship

Regulatory framework

Legislative provisions currently in place regulate the purposes for which use of funds can be made by RSE licensees.

More specifically, the sole purpose test for superannuation funds is set out in Section 62 of the SIS Act.

Sole purpose test

The sole purpose test requires the trustee of a superannuation fund to ensure that the fund is run solely:

a) For one or more specified "core purposes"; or

b) For one or more specified core purposes and for one or more "ancillary purposes".[17]

Briefly stated core purposes include the provision of benefits for each member of the fund on or after the member's death, retirement or attainment of an age not less than 65. Ancillary purposes include the provision of benefits on or after the termination of the member's employment, the cessation of work on account of ill-health, death after retirement or such other benefits the regulator approves in writing.

In the context of the sole purpose test, ASFA considers that the current regulatory framework which requires oversight of trustees is appropriate given the duties owed to fund members by trustees.

[16] ASFA, submission to the Productivity Commission, Draft Report, *How to Assess Superannuation Competitiveness and Efficiency*, September 2016
[17] *Superannuation Industry (Supervision) Act 1993*, Section 62

APRA has provided guidance on the sole purpose test by way of Superannuation Circulars and other public documents and statements.

APRA has indicated that the sole purpose test is sufficiently broad to encompass the normal activities of superannuation fund trustees, including those activities necessary to enable funds to provide retirement benefits.

APRA has also indicated that it is not possible to state categorically that a particular service or operational practice would always involve a contravention of the sole purpose test. It is not the type of practice that determines the matter rather it is the purpose for which it is undertaken in particular circumstances.[18]

In a 2006 submission to the Parliamentary Joint Committee on Corporations and Financial Services, APRA commented on trustee marketing membership campaigns intended to obtain or maintain economies of scale. Amongst other things, APRA indicated that if advertising or marketing is being considered in order to obtain or maintain economies of scale, the trustee should be able to demonstrate a good understanding of costs and their influence on economies of scale.[19]

Further, in 2015 in Answers to Questions on Notice before the Senate Economic Legislation Committee, APRA said that spending on campaigns related to superannuation and pensions was not necessarily inconsistent with the sole purpose test. It stated that if the activity is characterised as an expenditure or investment made in good faith and the trustee puts forward cogent reasons for believing that this will result in an improved retirement income outcome for the members (or for the protection of that retirement income), then the trustee's conduct would be unlikely to be in breach of the sole purpose test (even if others might disagree with the trustee's reasoning).[20]

4. Fees and costs charged to members, including:

a. transparency of fees and costs charged

b. consistency in the reporting by RSE licensees of fees and costs

Regulatory framework

The disclosure of fees and costs is regulated under the *Corporations Act 2001* and Schedule 10 of the *Corporations Regulations 2001* and governed by the Australian Securities and Investments Commission (ASIC) Regulatory Guide 97 (RG 97), as amended from time to time.

Regulatory Guide 97 (RG 97)

The first version of RG 97 was released on 5 July 2007 as *Regulatory Guide 97 Enhanced fee disclosure regulations: Questions and answers* and updated in November 2011 as *RG 97 Disclosing fees and costs in PDSs and periodic statements*.

[18] APRA Superannuation Circular No III.A.4 – The Sole Purpose Test
[19] APRA, submission to the PJC Inquiry into the Structure and Operation of the Superannuation Industry, September 2006
[20] APRA, Answers to Questions on Notice, Senate Economics Legislation Committee, 9 June 2015

ASIC review of fee and cost disclosure (2014)

In 2014 ASIC performed a review into fee and cost disclosure in superannuation and managed investment products, with Report 398, *Fee and cost disclosure: Superannuation and managed investment products* being issued in July 2014 (Report 398).

The report identified that, in ASIC's view, there was some inconsistent disclosure of fees and costs, including non-disclosure of fees and costs relating to investment in underlying investment vehicles, incorrect disclosure of fees net of tax and inconsistent disclosure of performance fees.

Modifications of the law and revision of RG 97 (2014 to 2017)

As a result of Report 398 ASIC undertook to perform further work to modify the requirements in the law to make them clearer and to provide industry guidance.[21] Revisions were made to RG 97 and it was reissued as a 43 page draft for consultation in December 2014. ASIC also consulted on proposed amendments to Class Order [CO 14/1252] *Technical modifications to Schedule 10 of the Corporations Regulations*.

In a submission to ASIC on the review of RG 97 ASFA identified a number of issues, including with the disclosure of costs with respect to interposed vehicles; estimation of costs; over the counter derivative costs; inclusion of voluntary information; performance fees; insurance; stapled securities, and start-up and one-off costs.[22]

ASFA made a further submission to ASIC in which we queried whether the underlying policy intent and desired policy outcomes were being achieved; the need for consumer testing to be performed; the need for cost/benefit analysis to be performed; the difficulties in applying the current regime to a variety of arrangements (and that it produced inconsistent outcomes); the lack of alignment with managed investment scheme disclosure; the need for materiality to be introduced; issues with related party transactions and offsetting arrangements.[23]

In November 2015 ASIC

- issued Report 457 *Response to submissions on draft Regulatory Guide 97 Disclosing fees and costs in PDSs and periodic statements*, which detailed ASIC's responses to the issues that were raised in the submissions; and
- made *ASIC Corporations (Amendment and Repeal) Instrument 2015/876,* which amended [CO 14/1252].

In March 2017 ASIC finalised a new version of RG 97, now 70 pages long.

[21] ASIC, media release 14-158MR, *ASIC reports on fee disclosure practices for super and managed investments*, 8 July 2014

[22] ASFA, submission to ASIC, *Review of RG 97 – Disclosing fees and costs in PDSs and periodic statements*, 6 March 2015

[23] ASFA, submission to ASIC, *Disclosure of fees and costs - draft Class Order amending CO 14/1252 and draft RG 97*, 4 September 2015

RG 97 Industry Working Group Guidance (2016 to 2017)

ASIC had encouraged the industry to develop their own guidance/standards that build on ASIC's guidance in RG 97. Accordingly, an RG 97 Industry Working Group (IWG) was convened in 2016 by industry representatives as a forum for all parts of the financial services industry affected by ASIC Class Order 14/1252[24] and RG 97 to share views, develop solutions to unresolved issues, and develop industry guidance on compliance.

Participants of the IWG were drawn from a range of sectors within the financial services industry, including providers of direct investments, retail and industry superannuation funds and industry bodies, including ASFA.

In November 2017 the IWG issued *RG 97 Industry Working Group Fee And Cost Disclosure Guidance*, the contents of which were informed by discussions with, and written feedback from, ASIC. The guidance runs to 90 pages, in addition to the 70 pages of RG 97 itself.

RG 97 external review (2017-2018)

On 1 November 2017 ASIC announced that, in response to the strong feedback from across industry around the challenges with the implementation of ASIC Class Order CO 14/1252 and RG 97, it would appoint an external expert to conduct a review of the fees and costs disclosure regime. The purpose of the review was to ensure that RG97 is effectively meeting its objective of greater transparency for consumers.[25]

The review is being conducted by Mr Darren McShane. According to the timetable published on the ASIC website Mr McShane was expected to complete his review and publish his report by 30 June 2018, although this had not occurred as at the date of this submission. Following completion of the review, ASIC has stated that it will need to decide what steps it should take in response to the conclusions and recommendations of the review.

ASIC has disclosed on their website the issues and concerns that industry stakeholders raised with them during the review. ASIC indicated that the general feedback was to the effect that RG 97 is complex and difficult to understand and that the fees and costs regime does not meet consumer needs, including that comparison of fees and costs between funds by consumers has been made more difficult. Specific feedback included issues with the disclosure of fees and costs in interposed vehicles, property operating costs, performance fees, implicit costs (such as bid/ask spreads and market impact costs), OTC derivatives, borrowing costs & fees and securities lending.[26]

[24] ASIC Class Order [CO 14/252] as amended by ASIC Instruments 2015/876; 2016/1224; 2017/65 and 2017/664
[25] ASIC, media release 17-409, *ASIC appoints expert to review fees and costs disclosure*, 28 November 2017
[26] ASIC, regulatory resources (ASIC website), RG 97 review, last updated 10 April 2018

Productivity Commission Draft Report, Superannuation: Assessing Efficiency and Competitiveness (2018)

The Productivity Commission observed that:

> *'A range of parties have expressed concerns about the new reporting standard, including that:*
>
> - *it could distort asset allocation decisions since particular investment structures and asset classes are potentially subject to different disclosure obligations (Frontier Advisors 2016; HWL Ebsworth Lawyers 2015;IFAA, QIEC Super and Club Super, sub. 53, p. 8).*
> - *the disclosure of 'upstream' investment fees could distort asset allocation as funds shift away from asset classes that face greater disclosure requirements, such as unlisted infrastructure, at the expense of investment returns (Rice Warner 2017g;MLC NAB Wealth, sub. 63 attach. 1)*
> - *the scope for interpretation could lead to greater inconsistency than under the current disclosure regime (IFAA, QIEC Super and Club Super, sub. 53, p. 8)'.*[27]

4. Fees and costs charged to members, including:

c. Insurance premiums and erosion of member balances

Regulatory framework

The SIS Act section 68AA requires death and permanent incapacity benefits being provided to MySuper (default) beneficiaries on an opt-out basis. Certain types of insurance benefits can also be made available to choice superannuation members. Insurance benefits have to be made available to beneficiaries via insurance policies acquired by the superannuation fund trustee from an insurer.

The SIS Act insurance covenants require trustees "to only offer or acquire insurance of a particular kind, or at a particular level, if the cost of the cover does not inappropriately erode the retirement income of beneficiaries".[28]

The trustee's management of its insurance framework is governed by APRA Superannuation Prudential Standard SPS 250 – Insurance in Superannuation and the Prudential Practice Guide SPG250 SPS 250 requires the superannuation fund trustee to review its insurance framework every three years to ensure it remains appropriate.

A key element of the insurance management framework is the superannuation fund's insurance strategy. Trustees must demonstrate that strategic decisions relating to making insured benefits available to beneficiaries have been made with reference to the collective best interests of the beneficiaries as a whole as well as in regard to the financial interests of members with an interest in the fund.[29]

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[27] Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness, April 2018*

[28] *Superannuation Industry (Supervision) Act 1993*, Section 52 (7) (c)

[29] APRA, Prudential Practice Guide SPG 250, Insurance in Superannuation

The Voluntary Insurance in Superannuation Code of Practice (the Code)

Responding to a range of developing issues with life insurance, including for life insurance held within superannuation, the superannuation and insurance industries formed the Insurance in Superannuation Working Group (ISWG) in October 2016. This group was formed to proactively identify weaknesses within the system in order to bring it to a higher standard.

Throughout 2017 the ISWG undertook a series of consultations to formulate self-regulatory standards in relation to identified issues including unsatisfactory erosion of retirement balances, non-standard claims handling timeframes and low levels of member engagement.

The ISWG released the Voluntary Insurance in Superannuation Code of Practice (the Code) in December 2017. A substantial number of APRA regulated superannuation funds have subsequently adopted the Code.[30] ASFA estimates that 92.2 per cent of MySuper members belong to funds who have adopted the Code.[31]

The Code commenced on 1 July 2018 (trustees that have adopted the Code have until 1 July 2021 to be fully compliant). All elements of the Code are required to be met or otherwise there is a requirement for an 'if not, why not' explanation by the trustee.[32]

ASFA's view is that for a significant majority of members group insurance in superannuation provides cover at good value when compared with securing the same level of cover outside of superannuation on an individual basis.

Life and disability insurance cover held in superannuation accounts typically has lower premiums than comparable policies held outside superannuation. The premium for a given level of cover is lower across age categories between 30 to 60 years, for both genders, inside superannuation. The difference in premiums ranges from approximately 25 per cent to 55 per cent less for females increasing with age. For males this benefit ranged from approximately 35 per cent to over 60 per cent also increasing with age.[33]

Insurance in superannuation also pays out a relatively high proportion of premiums in claims in comparison with individually underwritten insurance which is mostly acquired outside of superannuation.[34] Despite this, the level of retirement balance erosion occurring for some members is unsatisfactory and needs to be remedied.[35] ASFA has been a key contributor to the work of the Insurance in Superannuation Working Group (ISWG) that developed the Code to remedy this issue.

[30] The list of ASFA members who have stated intent to adopt the Code can be found on the ASFA website: https://www.superannuation.asn.au/policy/insurance-in-superannuation-voluntary-code-of-practice

[31] Estimated percentage is as at the date of this submission

[32] *Insurance in Superannuation Voluntary Code of Practice*

[33] Rice Warner 2016, data sourced from a sample of ten superannuation providers and thirteen insurers for a professional occupation member with $1,000,000 sum insured for death and TPD 'any' occupation (prepared for ASFA and not publicly available).

[34] Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness*, April 2018. The Commission noted that insurance in superannuation pays out around 75- 80 per cent of premiums in claims in comparison to 40 – 60 per cent for individually underwritten insurance.

[35] Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness*, April 2018. The Commission noted that approximately 17 per cent of members will incur retirement balance erosion rates between 14 per cent up to approximately 25 per cent in extreme cases.

To better balance the trade-off between insurance premiums and retirement balance erosion the Code sets a benchmark premium limit of 1 per cent of salary for fund members. Over time this will reduce the range and level of default premiums being paid by members. Further, when designing default packages of insurance trustees must assess the specific insurance needs and affordability of premiums for groups of members who are younger and/or in receipt of lower incomes.

To deal with the issue of duplicate and unnecessary insurance arising for fund members (which contributes to retirement balance erosion) the Code requires trustees to cease insurance for certain cohorts of members that have not received contributions for 13 months. This will significantly reduce the perverse outcomes that can arise due to insurances being held on multiple accounts, as will a range of other programs that are being undertaken to manage the proliferation of superannuation accounts more broadly.

The Code also sets a series of standards for claims handling to reduce timeframes and improve claimant experience.

Protecting Your Superannuation Legislation

In June 2018 the Government introduced legislation that aims to reduce erosion of retirement balances due to insurance premiums by changing to an opt-in framework for certain cohorts of members – new members under age 25, existing members with balances below $6,000 and existing members that have not received an amount in the last 13 months.[36]

In responding to the legislation ASFA considered that the proposed package of insurance changes should be modified as follows to achieve a better balance between providing insurance benefits and minimising the impact this has on retirement savings:

- Changing the minimum age that automatic cover can be provided to new members to 21 (from the proposed age of 25)
- Allowing new members over the minimum age to be provided with automatic cover immediately upon joining a fund without having to accrue a $6,000 balance
- Introducing exemptions to allow funds to provide (and continue to provide) insurance for "special categories" of members regardless of age or account balance, including higher risk occupations, when employers are covering premiums and for some choice and legacy products with linked investment and insurance amounts
- Removing the obligation on funds to cease death and TPD insurance for inactive accounts when the balance is over $6,000 (in line with the cessation provisions of the Code).[37]

[36] *Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018*

[37] ASFA, submission to Treasury on the Exposure Draft *Treasury Laws Amendment (Protecting Superannuation) Bill 2018,* 29 May 2018 and submission to the Senate Economics Legislation Committee inquiry into the *Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018,* 9 July 2018

4. Fees and costs charged to members, including:

d. Services and products offered to members through superannuation.

Regulatory Framework

The Stronger Super legislation package implemented between 2011 and 2013 enhanced the regulatory framework with respect to the charging of fees and costs for superannuation products and services.

MySuper was established as a specific class of superannuation product and permitted fees for these products were prescribed in the SIS Act.[38] In order for a fund to receive default contributions from an employer the fund must be MySuper authorised and comply with the fee charging rules.

The SIS Act also contains general fee rules that apply to APRA regulated funds.[39]

Services and products offered to members

Generally a superannuation fund trustee provides a range of investment, insurance, administration and ancillary services within a default or choice framework. In a MySuper (default) account these are provided and charged for automatically in most cases whereas for choice accounts an individual will have chosen (or been advised to obtain) a particular product or service and accepted the fees and costs associated with it. It is common for a superannuation fund to have cohorts of members in each of the default and choice segments.

For default products the trustee sets the bundled product and fee parameters within the restrictions of the MySuper legislative and regulatory framework. Fees and costs are charged automatically to members' accounts and members may opt-out of default insurance. On average, the percentage based fee amount for MySuper products is 0.81 per cent per annum.[40] This accounts for the coverage of investment, administration and ancillary services provided by the trustee, excluding insurance fees.

For choice products, members have control over their superannuation within the bounds of what the trustee has authorised for selection by members. The range of choices relating to investments, insurance, administration and ancillary services are wide in these products.

The MySuper segment accounts for approximately 50 per cent of all member accounts in the superannuation system with the choice segment accounting for approximately 40 per cent (with exempt public sector and self-managed superannuation fund accounts making up the difference).[41]

Investment services

In a default product, members are allocated to what is typically a low cost, simple but diversified portfolio of investments spread across a mix of defensive and growth assets as determined by the trustee. In terms of returns from these products, the Productivity Commission draft report indicates

[38] *Superannuation Industry (Supervision) Act 1993*, Part 2C, Division 5
[39] *Superannuation Industry (Supervision) Act 1993*, Part 11A
[40] Rice Warner – Superannuation Fees Analysis 2018 (available to Rice Warner subscribers)
[41] Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness*, April 2018

that MySuper products and their direct predecessor funds have achieved returns of 7 per cent per annum over the 12 years to 2016.[42]

Investment options in the choice segment are extensive in number and variety both across and within asset classes. According to APRA annual data at 2016 there are up to 40,000 investment options available to superannuation fund members across the 220 APRA regulated funds. Due to this, there is dispersion in the level of fees and costs that the various options attract. Similarly there is a wide dispersion in investment returns achieved across these options. This can be due to factors such as the nature and complexity of the underlying investment, gearing, platform sophistication, technology and reporting.

Insurance

It is a requirement that default insurance is provided to members of MySuper products on an opt-out basis.[43] ASFA's comments regarding insurance premiums for automatic insurances provided by default is provided in section 4c of this submission.

Current default insurance arrangements allow like groups of members to be provided with insurance that they might otherwise be unable to obtain at affordable rates. This is particularly beneficial for individuals working in high risk industries and for those with pre-existing medical conditions.

A wide range of insurance options are also available by choice within superannuation. A member can remain in a group policy that they may have been issued automatically but choose to take up an additional offering to either increase or broaden the scope of cover.

In addition, options exist for individuals to purchase an individual policy in superannuation, sometimes under the advice of a licensed person, and have premiums and advice fees charged to the superannuation account.

Administration and ancillary services

Trustees are required to provide a prescribed level of administration and communications service to each member. For example, trustees are subject to the shorter PDS disclosure regime and must provide regular statements (with prescribed content) and significant event notices to members.

Heightened disclosure requirements have been a feature of the regulatory landscape over the past decade. Increased systemic transparency requirements formed part of the Stronger Super legislative package and included requirements to disclose executive remuneration and other information on fund websites.

Often within a choice product, more sophisticated administration services are available to members than what a default product provides. These services often work hand in hand with investment flexibility, enabling members to actively manage and oversee their investment portfolios. Similarly, taxation and other strategies can be tailored to the individual member with some offerings.

Many fund trustees also choose to provide additional services that improve the retirement outcomes for members through the provision of education and advice services. The regulatory

[42] Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness*, April 2018

[43] *Superannuation Industry (Supervision) Act 1993*, section 68AA

framework enables superannuation fund trustees to provide intra fund advice on specific issues without charging members individually.[44]

As technology improves, and regulation around the provision of digital advice is better understood the opportunity for trustees to expand education, advice and engagement services through lower cost channels is significant.

ASFA has in the past estimated the costs of superannuation fund trustees providing financial advice services using survey data. While each and every member may not personally use this service, it was estimated that the median cost per member is $2.81 per annum.[45]

5. Regulator Engagement & Effectiveness

Regulatory framework

There are four regulators for the superannuation industry — the Australian Prudential Regulation Authority (APRA), the Australian Securities and Investments Commission (ASIC), the Australian Taxation Office (ATO) and the Australian Transaction Reports and Analysis Centre (AUSTRAC).

APRA and ASIC operate under a 'twin peaks' model which broadly gives APRA jurisdiction over prudential matters and gives jurisdiction for consumer protection, conduct and disclosure to ASIC. APRA is governed by the *Australian Prudential Regulation Authority Act 1998*, and ASIC by the *Australian Securities and Investments Commission Act 2001*.

While ASIC and APRA are the primary regulators for the APRA-regulated superannuation sector, the ATO is playing an increasingly important role in setting regulatory requirements for participants in the superannuation system.

Recent reviews and reforms to the regulatory framework

The most recent comprehensive review of the regulatory architecture for Australia's financial system occurred in 2014 as part of the Financial System Inquiry (FSI). The FSI found that while there was scope for improvement, substantial change was not warranted.

ASFA concurred with that finding, noting in our response to the FSI Final Report that while we did not have any major concerns with the regulatory structure, we considered there were a number of areas where the regulators' effectiveness and engagement could be improved.[46]

[44] ASIC, Information Sheet 168: Giving and collectively charging for intra-fund advice, last updated 26 September 2016
[45] ASFA, survey on the provision of financial advice by superannuation funds, 2014
[46] ASFA, submission to Treasury, *Response to the Financial System Inquiry Final Report*, March 2015

The FSI identified as concerns the lack of a regular process for assessment of regulator performance, the need to emphasise competition matters, and weaknesses in regulators' funding models and enforcement toolkits. ASFA generally agreed with those findings and recommendations. Steps have been taken by the Government to address many of these issues. For example:

- The regulators have developed performance review metrics and initiated a process of annual self-assessment against those metrics, with feedback from stakeholders. ASFA participated in the stakeholder process for development of the metrics.
- A capability review was undertaken for ASIC in 2015, making key recommendations in relation to improving aspects of ASIC's governance, culture and communication. While the Government has implemented legislative amendments to ASIC's governance arrangements,[47] other outcomes from the review are less apparent. Further, while the FSI recommended that a capability review should also be performed for APRA, we are not aware that this has been done as yet.
- Enhancements have been implemented, or are proposed, to the regulators' monitoring and enforcement powers. These include the introduction of the Banking Executives Accountability Regime and crisis management powers for APRA and strengthened oversight arrangements for superannuation trustees ('member outcomes' test).
- Proposed legislative amendments will provide ASIC with greater operational flexibility and make express provision for the regulator to consider competition in its decision-making processes.[48] The Government has also implemented or proposed amendments to the governance arrangements for both ASIC and APRA, to allow for the appointment of a second deputy chair and for the appointment of an additional ASIC Commissioner with experience in enforcement. [49]
- A cost recovery funding model has been introduced for ASIC, and refinements have been made to the APRA supervisory levy arrangements, to move toward full cost recovery for all superannuation-related activities.

The FSI also recommended that the Government create a new Financial Regulator Assessment Board (FRAB) to advise it on how regulators have implemented their mandates.

ASFA broadly supported this recommendation, on the basis it would, if implemented effectively, provide for an additional layer of regulator accountability.

The recommendation to establish the FRAB was not accepted by the Government, which instead reconstituted the Financial Sector Advisory Council in May 2016 with refreshed Terms of Reference to include providing advice on the performance of the financial regulators.

Regulator funding

The APRA-regulated superannuation sector pays substantial levies to APRA for its supervisory activities, part of which is allocated to fund superannuation related activities of other agencies — primarily, ASIC and the Australian Taxation Office, with a smaller allocation for the Department of Human Services. This allocation will be changing going forward, with the ATO taking on the services

[47] *Treasury Laws Amendment (ASIC Governance) Act 2018*
[48] *Treasury Laws Amendment (Enhancing ASIC's Capabilities) Bill 2018*
[49] *Treasury Laws Amendment (ASIC Governance) Act 2018; Treasury Laws Amendment (APRA Governance) Bill 2018*

previously provided by the Department of Human Services and ASIC commencing to raise its own cost recovery levy.[50]

For the 2017-18 financial year, APRA levies for its regulated superannuation entities totalled $105.6 million, while ASIC (under its new industry funding model) has budgeted a cost recovery amount for superannuation trustees of $7.197 million. For 2018-19, APRA's proposed levies for the superannuation sector total $82.3 million. ASIC's indicative levies for 2018-19 are not yet available.

Despite the magnitude of these levies, the level of publicly provided information makes it difficult to ascertain how levies are determined, allocated between, and utilised by the relevant agencies. Cost Recovery Implementation Statements issued by the regulators are high level and general in nature. As a result, it is sometimes difficult to determine whether reasonable value is obtained, in terms of regulatory outcomes.

ASFA has previously expressed a view that it is important that the regulators are adequately funded and that in order to achieve this it is appropriate that all regulated entities should contribute to that funding.

ASFA has also recommended that increasing transparency over the calculation, allocation and use of levies raised from industry would provide appropriate insight into regulators' activities and build confidence that the regulators are functioning well.[51]

Clarity of mandate

The Productivity Commission has expressed the view that the conduct regulation arrangements for the superannuation system are "confusing and opaque, with significant overlap and no clear delineation between the roles of APRA and ASIC".

They have recommended that APRA and ASIC's roles are more clearly delineated and better aligned with their distinct 'regulatory DNA'. In their view, APRA should be distinctly focused on prudential health (ensuring high standards of system and fund performance) while ASIC should focus on the behaviour of the system (the conduct of trustees, advisers and the appropriateness of products).[52]

[50] The ASIC cost-recovery levy applies with effect from 2017-18 however the first invoices are not due to be raised until January 2019

[51] ASFA, various submissions and most recently in a submission to Treasury on Proposed Financial Institutions Supervisory Levies for 2018-19, 12 June 2018

[52] Productivity Commission, Draft Report, *Superannuation: Assessing Efficiency and Competitiveness*, April 2018

Regulator engagement

In ASFA's experience, APRA, ASIC and the ATO make considerable effort to engage with industry and to provide stakeholders with an appropriate level of access to senior regulatory staff. Regulator engagement occurs most commonly through formal consultation processes, but also on a less formal basis through meetings and working groups and attendance at industry forums.

The regulators generally allow reasonable periods for industry to consider new or amended regulatory requirements and provide submissions, to the extent possible.

There is often a material compliance and administrative burden associated with the implementation of regulatory reforms. Maintenance of a constructive working relationship between industry and the regulators may reduce implementation and ongoing costs which are ultimately borne by members of superannuation funds.

APRA has recently commenced a post-implementation review into the substantial reforms to its prudential framework introduced in 2013.

6. Any other terms of reference

e. Mechanisms for redress

Item (e) of the Commission's terms of reference relates to "the effectiveness of mechanisms for redress for consumers of financial services who suffer detriment as a result of misconduct by financial services entities". ASFA anticipates this might include consideration of whether there is a need for a 'compensation scheme of last resort' ("CSLR") to remedy situations where a consumer has not received compensation awarded to them by an external dispute resolution body.

Regulatory framework

The financial services regime in Australia does not include a universal CSLR to address uncompensated consumer losses, however some targeted compensation schemes exist.

These include Part 23 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act), which provides protection for members of a regulated superannuation fund, where there has been a loss as a result of fraudulent conduct or theft, causing substantial diminution of the fund leading to difficulties in the payment of benefits. [53] Where an 'eligible loss' has been established, the Minister may approve a grant of financial assistance to the trustee of the impacted fund. The level of compensation provided is subject to the Minister's discretion, but has typically ranged between 90 and 100 per cent.

[53] Part 23 applies to a fund that was, at the time the loss was suffered, a regulated superannuation fund (other than a self-managed superannuation fund) or an approved deposit fund: *Superannuation Industry (Supervision) Act 1993*, subsection 229(1)(aa)

An effective compensation scheme already exists for APRA-regulated superannuation

As noted above, Part 23 of the SIS Act effectively operates as a CSLR for the APRA-regulated superannuation sector.

Part 23 has been utilised only a handful of times since it was established in 1993.[54] These primarily related to two main incidents of fraud or theft, affecting members of funds formerly under the trusteeship of Commercial Nominees of Australia Limited and Trio Capital Limited.

In each case, levies were raised on all APRA-regulated funds to recoup the amount of the grant initially provided by the Government – that is, the compensation provided was entirely funded from within the APRA-regulated superannuation sector. Part 23 has also been the subject of review and refinement to ensure that it operates effectively and appropriately.[55]

Given the effectiveness of Part 23, ASFA would not support any industry-wide CSLR that has the potential to involve cross-subsidisation by the APRA-regulated superannuation sector of losses incurred within any other sector.

In the event that a broader CSLR is contemplated, it is critical that it appropriately reflects the relative risk of each sector — noting that some sectors are subject to more stringent regulation than others and their risk of contributing towards a failure requiring compensation is, therefore, less than that applicable for other sectors.

Finally, it will be necessary to adequately address the issue of moral hazard. The two most recent substantive reviews of compensation arrangements in financial services have concluded that moral hazard is a significant risk associated with the introduction of a CSLR. [56]

Recent consideration of the need for a CSLR

The need for a broader CSLR was most recently considered by the review of the financial services external dispute resolution system ("the EDR Review"). While the EDR Review provided its final report and recommendations to the Government in September 2017, the Government has deferred further consideration of the matter until after the conclusion of this Royal Commission.[57]

The EDR Review concluded there was a need for a limited and carefully targeted CSLR — initially restricted to financial advice failures where a 'relevant provider'[58] has provided personal and/or

[54] Levies were raised in respect of the 2001-02, 2002-03, 2003-04, 2004-05, 2010-11 and 2012-13 years to recoup grants of financial assistance funding

[55] Superannuation Working Group: Options for Improving the Safety of Superannuation - Background Issues, December 2001 and via the *Superannuation (Financial Assistance Funding) Levy Amendment Act 2003*, *Financial Framework Legislation Amendment Act 2005*, and the *Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007*

[56] Review of the financial system external dispute resolution framework Supplementary Issues Paper, May 2017, paragraphs 90-91, and Richard St John, *Compensation arrangements for consumers of financial services*, April 2012, piii-iv

[57] The Hon Kelly O'Dwyer MP, Minister for Revenue and Financial Services, Media Release: *Release of the external dispute resolution framework Supplementary Final Report*, 21 December 2017

[58] As defined in section 910 A of the *Corporations Act 2001*, a person is a relevant provider if the person: (a) is an individual; and (b) is (i) a financial services licensee; or (ii) an authorised representative of a financial services licensee; or (iii) an employee or director of a financial services licensee; or (iv) an employee or director

general advice on 'relevant financial products'[59] to a consumer or small business, but scalable to cover other types of financial services in the future if necessary.

ASFA agrees that consumer confidence in financial services is adversely impacted when a consumer does not receive the compensation due to them in relation to a dispute with their provider. However, ASFA does not support the introduction of a generic (industry-wide) CSLR that would extend, in scope, to cover the APRA-regulated superannuation sector.

During 2010-12, Mr Richard St John conducted an extensive inquiry of compensation arrangements in financial services. He concluded that greater efforts were required to secure compliance by individual financial services licensees, before it would be appropriate to consider any CSLR. Mr St John noted that it would be "inappropriate to require more responsible and financially secure licensees to underwrite the ability of other licensees to meet claims against them for compensation".[60]

As indicated in our response to the EDR Review, ASFA concurred with Mr St John's findings. Rather than imposing a generic CSLR on the entire financial services industry, ASFA considers that consumer confidence might be more effectively supported by implementing measures directly targeted to those sectors where most issues are experienced.

The issue of unpaid determinations is confined only to particular industry sectors

As indicated in ASFA's response to the EDR Review's supplementary issues paper on the need for a CSLR, cases of non-payment of determinations and other failures to compensate have not been experienced uniformly across the financial services industry. Rather, they have been primarily confined to specific sectors — particularly the advice sector.

The EDR Review found that as at 30 June 2017 $14,146,094 of determinations issued by the Financial Ombudsman Service (FOS), excluding interest, remained unpaid.[61] Evidence provided to the Review by the FOS indicated that, by value, over 90 per cent of its unpaid determinations relate to financial advice.[62]

The experience of the APRA-regulated superannuation sector is quite different. The EDR Review acknowledged that the Superannuation Complaints Tribunal (SCT) had no outstanding unpaid determinations, and this was "due to the nature of prudential regulation in the superannuation system, which means it would be rare for a superannuation fund to be unable to pay its obligations".[63]

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of a related body corporate of a financial services licensee; and (c) is authorised to provide personal advice to retail clients, as the licensee or on behalf of the licensee, in relation to relevant financial products.

[59] As defined in section 910A of the *Corporations Act 2001*, these are financial products *other than*: basic banking products, general insurance products, consumer credit insurance or a combination thereof.

[60] Richard St John, op. cit., piii-iv

[61] Review of the financial system external dispute resolution and complaints framework, Supplementary Final Report, September 2017, paragraph 31

[62] Supplementary Final Report, op. cit., paragraph 23

[63] Supplementary Issues Paper, op. cit., paragraph 122

ASFA concurs with this assessment. Trustees of APRA-regulated superannuation funds are subject to extensive legislative and prudential requirements as well as overarching fiduciary duties designed to ensure funds are operated in the best interests of members.

Past instances of unpaid SCT determinations have been infrequent and quickly addressed. On those rare occasions where fraud or theft has occurred to such an extent that a fund's ability to pay benefits to members was jeopardised, these have been addressed through the operation of Part 23.

'Phoenix' behaviour, which has been observed within the broader financial advice sector, has not been a concern in the APRA-regulated superannuation sector and is less likely, given the substantial regulatory barriers to securing registrable superannuation entity licensee status.

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Conclusion

Because our representation is broad, across all parts of the industry, ASFA tries to play an "honest broker" role backed up by evidence based research. Appendix 1 sets out our principles for assessing public policy. ASFA engages extensively with our membership to research, debate and consider feedback on important issues.

When analysing proposed policy settings, ASFA draws on its extensive research to assess the proposal according to its impact on sustainability, adequacy and equity of the system, as well as to identify the consequences (both intended and unintended) for superannuation fund members.

Australia's superannuation system underwrites the health of our economy, fosters innovation in investment products and reduces the financial burden of the Age Pension on future generations. For these reasons and to maintain public confidence in the system it is so important to get the policy settings right.

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If you have any queries or comments in relation to the content of our submission, please contact Director of External Affairs and Strategy, Julian Cabarrus, on (02) 8079 0815 or by email at jcabarrus@superannuation.asn.au

ASFA would be pleased to provide hard copies of our prior submissions referenced throughout this submission, if that would be of assistance.

Yours sincerely

Martin Fahy

Chief Executive Officer

ASFA Policy Principles

1.1 • **Principle:** ASFA should be an "honest broker", aiming to inform debate to improve outcomes for fund members.

1.2 • **Principle:** The impact on fund members and other stakeholders is understood and is evidence-based.

1.3 • **Principle:** The issue is a priority in ASFA's strategic plan or is significant in nature, for example because an existing position has become indefensible from the perspective of fund members'.

1.4 • **Principle:** The likely impact of the policy will be to improve equity, efficiency, simplicity and/or adequacy in the system.

1.5 • **Principle:** The policy will increase sustainability and fund members' confidence in the system.

1.6 • **Principle:** A compromise can be reached despite a diverse and valid range of views across ASFA members.

1.7 • **Principle:** ASFA is likely to be perceived as credible in advocating a position.