

EXPOSURE DRAFT – INTRA FUND CONSOLIDATION OF SUPERANNUATION INTERESTS

Submission by

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1. Relevant History

- 1.1 One of the recommendations of the Cooper Review was to consolidate multiple accounts within the one superannuation fund.

It was found that multiple small accounts within the one fund was inefficient and undermined members' retirement incomes with unnecessary duplication of administration fees.

The intra fund consolidation was to be mandatory and without prior reference to the relevant member.

- 1.2 The Federal Government's response in December 2010 was to support intra fund auto consolidation "provided the member was notified in advance, including any impact on insurance cover, and has the right to opt out".
- 1.3 The Stronger Super Implementation Group's recommendations in June 2011 included mandated intra fund consolidation and the consolidation of lost and inactive accounts (with no inward transactions for at least two years) with accumulated amounts under \$1,000 and with members to be offered the opportunity to opt out.

2. The Exposure Draft

- 2.1 The Superannuation Legislation Amendment (Stronger Super and Other Measures) Bill 2012, mandates the consolidation of inactive accounts within a superannuation fund with withdrawal amounts under \$1,000.
- 2.2 Inactive accounts are those with no contributions, rollovers or transfers into the fund for two years or more, eligible rollover fund accounts and lost accounts.
- 2.3 The consolidation is to be undertaken pursuant to rules established by the fund and published to members. However, the consolidation need not be with members' consent nor give members the opportunity to opt out.

3. Technical Drafting Issues

- 3.1 *Eligible Rollover Funds*

The definition of "inactive superannuation interests" incorporates a member's interest in an eligible rollover fund.

A plain reading of the definition appears to include eligible rollover funds that are not associated with the consolidating superannuation entity.

Given that the Bill is aimed at consolidating superannuation accounts within the one fund, it may be problematic to include in the definition section members' eligible rollover fund accounts which have no association with the fund.

The sub-section does state that a member's interests in an eligible rollover fund may be excluded from consolidation by prescription in the Regulations. Accordingly, the above concerns could perhaps be addressed by Regulation.

- 3.2 *Section 108A(1)(a)(ii) Accounts With The Same Rights and Benefits*

This sub-section specifies that only those interests that have “the same rights and benefits” can be consolidated.

This phrase is not defined.

It is unclear whether what is meant by the phrase is simply a general mutuality of the types of fund interests – for example, all are accumulation accounts or perhaps accounts with similar investment strategies.

Alternatively, the phrase could be interpreted to be more prescriptive – for example, the interests include the same (or similar) insurance benefits for death, total and permanent disability and/or income protection, or perhaps even the same (or similar) account balances.

Whilst requiring interests to have the same or similar account balances would seem illogical and unnecessary, the consolidation of accounts with a resultant reduction in insurance cover would usually be undesirable.

Accordingly, it may be appropriate to prescribe what are the same rights and benefits in this Section or perhaps by way of Regulation.

4. Policy Issues

4.1 *Mandatory Consolidation*

The Exposure Draft requires funds to consolidate inactive superannuation interests without first obtaining members’ consent or providing an opt out facility.

This is consistent with the Cooper Review recommendation but contrary to the Federal Government’s response.

It could be said that superannuation fund members should have the right to determine in what superannuation funds, and what accounts within those funds, their monies are held. However, this has to be weighed against the sound policy setting of reducing the number of small inactive superannuation accounts in an efficient manner.

Given that the exposure draft bans fees for the consolidation of accounts (s 108A (1) (b)(ii)), and given the protections of the \$1,000 cap and the other duties imposed by s 108A, it is our view that mandatory consolidation is appropriate.

4.2 *\$1,000 Account Balance Cap*

The Exposure Draft places a \$1,000 cap on inactive accounts (and eligible rollover fund accounts) to be consolidated.

This is consistent with the recommendations of the Stronger Superannuation Implementation Group – although that recommendation was extended to inactive inter fund accounts.

The cap is also broadly consistent with the Federal Government’s response to the Cooper Review with its acknowledgement of the potential impact of intra fund consolidation on insurance cover.

Death and TPD insurance cover tops up the retirement incomes of those whose working lives are cut short because of death or disability.

This insurance cover can be invaluable to people with disabilities who may otherwise be dependent on Government welfare.

In the last five to ten years, many employment superannuation funds have moved to offer account-based insurance under which cover continues after superannuation contributions cease with insurance premiums deducted from a member's account balance. Most such insurance arrangements have minimum account balance requirements of at least \$1,000 for the continuation of cover.

Accordingly, the \$1,000 cap for consolidation in the Exposure Draft will protect those accounts from being consolidated and closed and protect against the loss of insurance cover for death and disability, which may be substantial six-figure lump sums.

It must be acknowledged that the insurance arrangements of some employment superannuation funds exclude multiple payments for death and disability insurance benefits within the one fund (unlike multiple fund payments which are relevant to inter fund consolidation).

Nevertheless, the \$1,000 cap set out in the Exposure Draft does provide a hedge against the potential loss of valuable insurance cover with intra fund consolidation.

In our view the \$1,000 cap in the Exposure Draft provides a reasonable balance between the consolidation of unnecessary multiple accounts within the one fund and the desirability of protecting against the loss of potentially valuable death and disability insurance cover.

4.3 *Notification Requirements*

The Exposure Draft requires superannuation funds to establish rules for intra fund consolidation and that the rules be published in such a way that members are aware of the consolidation procedure.

The publication requirement would appear to be satisfied by, for example, the inclusion of rules in annual statements and/or Product Disclosure Statements. There is no requirement that a member be specifically informed of a pending account consolidation and the possible loss of insurance cover. Further, there is no opportunity for members to opt out of consolidation.

The general notification requirements are appropriate if intra fund consolidation is to be mandatory, i.e. there would be no necessity to notify individual members before their accounts are consolidated if there was no opportunity to opt out. Further, given the \$1,000 cap, there will usually be no need to inform of the pending loss of insurance cover.

It is also noteworthy that ss 108A (1)(b)(ii) and (c)(ii) appear to allow for further publication obligations to be prescribed by Regulation. This could be used to introduce specific notification requirements, the need for which is identified after the commencement of intra fund consolidation.

5. Inter Fund Consolidation

It is noted that further legislative measures dealing with inter fund consolidation are to follow.

Whilst much of the policy reasoning and comments on the intra fund Exposure Draft will have a broader application, there are issues specific to inter fund consolidation which will need consideration, particularly in relation to insurance cover.

We welcome the opportunity to make submissions and assist in developing that is in the interests of all superannuation fund members.