

*Submission in Response to  
Better regulation and governance,  
enhanced transparency and improved  
competition in superannuation*

**February 2013**

**National Seniors**

**Australia**

### **About National Seniors Australia (National Seniors)**

With over 200 000 members Australia-wide, National Seniors is the consumer lobby for the over-50s. It is the fourth largest organisation of its type in the world.

**We give our members a voice** – we listen and represent our members' views to governments, business and the community on the issues of concern to the over-50s.

**We keep our members informed** – by providing news and information through our Australia-wide branch network, comprehensive website, forums and meetings, bi-monthly lifestyle magazine and weekly e-newsletter.

**We provide a world of opportunity** – we offer members the chance to use their expertise, skills and life experience to make a difference by volunteering and making a difference to the lives of others.

**We help our members save** – we offer member rewards with discounts from over 7000 businesses across Australia, we offer discount travel and tours designed for the over 50s, and we provide older Australians with affordable, quality insurance to suit their needs.

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## **Table of Contents**

<b>Introduction.....</b>	<b>1</b>
<b>Part 1: A Better Approach To Regulation.....</b>	<b>3</b>
<b>Part 2: Better Governance.....</b>	<b>3</b>
<b>Part 3: Enhanced Transparency .....</b>	<b>5</b>
<b>Part 4: Enhancing Competition in the Default Superannuation Market.....</b>	<b>9</b>
<b>Conclusion .....</b>	<b>10</b>

## Introduction

National Seniors welcomes the opportunity to respond to the discussion paper *Better regulation and governance enhanced transparency and improved competition in superannuation*.

National Seniors supports the Government's objective to restore stability and certainty to Australia's superannuation system and its commitment to improving regulation and governance and enhancing transparency, thereby maximising benefits to members whilst minimising the compliance burden on the sector. However National Seniors believes that maximising the benefits and providing protection to members of superannuation funds must be the key focus of all policy changes.

Superannuation is a form of forced savings derived from foregone wages. Therefore, the Government has a responsibility to ensure that the superannuation system is effective, appropriately regulated and focused on achieving an appropriate level of return to compensate members for their loss of income and their opportunity cost.

The impact on members when superannuation funds underperform and fail to meet member's expectations can be financially devastating. The negative impacts of under-performing superannuation funds can be slow to build with a long tail to disaster, for example a consistent misalignment in superannuation investment choices can result in investment outcomes differing significantly from members' expectations.

The increasing complexity of the retirement income system and financial markets combined with increasing life expectancy<sup>1</sup> and low levels of financial literacy amongst some over 50s<sup>2</sup> increase the necessity for Government to ensure a well-functioning, transparent superannuation system. A well-functioning superannuation system should empower members to make more informed investment decisions.

The primary focus of superannuation should be to generate an income replacement mechanism rather than a wealth generation vehicle.

National Seniors believes that the Government should emphasise the need for the superannuation system to provide members with an stable and adequate income stream in retirement which seeks to meet their expectations.

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<sup>1</sup> Organisation for Economic Co-operation and Development (2012) *OPISA 2012 Financial Literacy Framework*, OECD.

<sup>2</sup> National Seniors Australia Productive Ageing Centre (2012) *Financial Wellbeing: Concerns and choices among older Australians*, National Senior Australia.

National Seniors recommends that the commencement date for the existing proposed reforms should remain at 1 July 2014 and should not be deferred. The majority of the reforms proposed apply a level of transparency and accountability that is standard within other sectors of the corporate world and which is commonly expected by consumers.

The superannuation sector is an anomaly which has to date escaped rigorous consumer protection regulation and has also been unable to successfully self-regulate. Therefore amendments to legislation will be the most effective approach to ensure compliance with the proposed policy changes.

## **Our Position**

National Seniors has provided responses to questions which are most pertinent to our members. Our responses are focused on ensuring that the superannuation system meets its objectives of providing an adequate level of retirement income. National Seniors believes that improvements are needed to the level of governance, transparency, competition and consumer protection if the superannuation system is to meet its objectives.

In Summary National Seniors' Position is:

**Part 1: A Better Approach To Regulation:** The proposed policy changes apply a level of consumer protection expected by consumers. The failing of some superannuation funds to adequately self-regulate has brought on the need for the Government to regulate. National Seniors believes that the proposed policy changes should be structured in a cost effective manner to ensure minimal impact on members.

**Part 2: Better Governance:** As a minimum, superannuation trustee boards should have the same level of independence, transparency and accountability as boards of corporations.

**Part 3: Enhanced Transparency:** To facilitate informed decision making and enhance members' understanding of their superannuation investment options, the performance of superannuation funds and their portfolio holdings must be communicated to members as clearly as possible. For example, returns reported by funds should distinguish between income generated and the value of their assets at that point in time.

### **Part 4: Enhancing Competition in the Default Superannuation Market:**

In order to encourage competition, the process for selecting default superannuation funds and products must be as transparent as possible. This will provide real choice and enhance levels of retirement income which meet the needs of members.

## **Part 1: A Better Approach To Regulation**

### **Q1.) What suggestions do you have for how the regulatory compliance burden can be reduced?**

National Seniors understands and appreciates the need to limit the compliance burden and its associated regulatory costs on superannuation funds. However the majority of proposed regulations and policy changes apply a level of transparency and accountability expected by consumers which is already standard within other sectors of the corporate world.

The failing of some superannuation funds to adequately self-regulate has brought on the need for the Government to regulate. National Seniors believes that the proposed policy changes should be structured in a cost effective manner to ensure minimal impact on members.

## **Part 2: Better Governance**

National Seniors believes that ensuring superannuation trustee boards have the right balance of independence and expertise is paramount to achieving positive outcomes for members; governance and policy changes are required to ensure that appropriate individuals are appointed to the board, the board's performance is accountable to members and that the board members' interests are fully disclosed and managed.

### **Q2.) What is the most appropriate definition of independence for directors in the context of superannuation boards?**

National Seniors believes that the most appropriate definition of independence is the definition provided by the ASX Corporate Governance Principles. National Seniors supports the more flexible definition of independent directors which extends to former employees. National Seniors believes that all directors should be appointed through a publicly disclosed appointment process with directors appointed on merit.

### **Q3.) What is an appropriate proportion of independent directors for superannuation boards?**

National Seniors believes that the ASX Corporate Governance Principles that the majority (51%) of directors are independent directors, should be applied to superannuation trustee boards.

### **Q4.) Should superannuation trustee boards have independent chairs?**

National Seniors believes that superannuation trustees board should be required to have independent Chairs.

The majority of independent directors combined with independent Chairs will add value to the board and subsequently improve investment returns to the members. This would operate in a manner similar to independent boards which have the potential to enhance shareholder value by being more willing to make hard decisions.<sup>3</sup>

**Q5.) Given the way that directors are currently appointed varies across funds, does it matter how independent directors are appointed?**

**Q6.) Should the process adopted for appointing independent directors be aligned for all board appointments?**

The board members of superannuation funds ultimately make major decisions which impact on the members' investment outcomes, therefore directors should be ultimately accountable to members. Currently, the only recourse members have to display their disapproval with a trustee or board is to leave the fund.

Consideration should be given to creating some form of direct board accountability to members. One possibility could be to allow members to directly elect independent directors through a ballot system, as occurs for shareholders of companies.

The benefits arising from creating real accountability and allowing members to directly comment on board performance are immensely valuable.

**Q7.) Are there any other measures that would strengthen the conflict of interest regime?**

Directors of superannuation boards should be obligated to disclose their relationship with other superannuation and corporate entities to the members and not just the board. A Register of Interest similar to Parliament's *Members' Interests Statements*<sup>4</sup> should be kept by the chief executive officer of the superannuation fund and made available to the members and the public on the superannuation fund's web site.

In addition the Register of Interest should also disclose the level of their conflict of interest, for example how much income directors derive from each conflicting relationship. The individual director's relationships with associated entities must also be disclosed to the board and directly to the members.

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<sup>3</sup> Australian School of Business (2013) *No Social Ties: How Independent Boards Improve Firm Performance* UNSW Australia.

<sup>4</sup> Parliament of Australia (2013) Register of Members' Interests 43rd Parliament: Members' Interests statements.

**Q8.) In relation to board renewal, should there be maximum appointment terms for directors? If so, what length of term is appropriate?**

**Q9.) Should directors on boards be subject to regular appraisals of their performance?**

National Seniors believes that the maximum appointment term of directors should be 3 years and directors may only serve on the board for a maximum of 9 years in total. National Seniors also believes that directors should be subject to regular independent and external appraisals as determined by the board and the results should be disclosed to the fund's members.

**Q10.) Would legislation, an APRA prudential standard, industry self-regulation or a combination be most suitable for implementing changes to governance?**

**Q11.) What is the appropriate timeframe to implement the Government's governance policy?**

National Seniors believes that an amendment to primary super legislation - the *Superannuation Industry Supervision Act 1993* - is required to ensure the timely implementation of the proposed changes to superannuation governance.

National Seniors believes that self-regulation cannot be relied upon to deliver the required reforms within a timely manner. National Seniors also believes that an Australian Prudential Regulation Authority (APRA) prudential standard would not be as effective as a legislative response.

National Seniors believes that the majority of the existing proposed reforms should be implemented as soon as possible and no later than the current 1 July 2014 timeframe. However National Seniors does appreciate the need for a lead in timeframe and staggering of some of the proposed reforms, especially implementing a limit to the terms of directors for which a 2-3 year lead in time frame may be required.

### **Part 3: Enhanced Transparency**

National Seniors believes that to make informed investment decisions members must have access to timely, accessible and understandable information on the performance of superannuation funds and investment products, the level of exposure to risks and the fund's portfolio holdings.



The proposed product dash board and increased portfolio holding disclosure will enhance transparency. However there is still a large gap in financial literacy of many members which limits the benefits of increased transparency and disclosure.

National Seniors suggests that the summary of the results of ASIC's consumer testing of the MySuper product dashboard are considered when Government finalises the format of both the MySuper and choice product dashboards, specifically the confusion surrounding the comparison between return target and return graph.

A solution would be to produce two graphs separating the yearly result from the 10 year trend and average target return, thereby reducing the degree of consumer confusion regarding the different styles (bars versus lines) utilised on the current graph.

**Q13.) Should a choice product dashboard present the same information, in the same format, as a MySuper product dashboard?**

National Seniors believes that it is essential for consumers to be able to compare MySuper products and "choice" products. Therefore the dash boards should present the same information in the same format.

**Q14.) Is it appropriate to use a single benchmark (CPI plus percentage return) for all choice product return targets?**

Whilst acknowledging that some investments do not have a CPI plus target, National Seniors believes that it is appropriate to use CPI plus percentage return for all "choice" product returns. This approach would highlight to members the performance of their investments against CPI and may encourage those with different targets to reassess the effectiveness of their investment strategy.

When a fund pays interest only to members, it is important to explain the meaning of a negative return (ie below CPI) on the report.

**Q15.) Should both net investment return (investment return net of investment costs only) and net return (investment return net of all associated costs) be used to measure a product's investment return on the choice product dashboard?**

The actual return that members receive from their fund is the key measure which is critical to consumers, therefore net return should be utilised in both the "choice" product and MySuper product dashboards.

Adding additional return measures which exclude some costs will increase the level of consumer confusion. However, National Seniors suggests that the most

appropriate return measurement would be the net returns percentage amount, less tax paid on investment earning. Income from superannuation investments are taxed at a maximum 15%.<sup>5</sup> Including tax would convey to members their true financial returns and allow them to understand exactly how well their superannuation investments have performed.

**Q16.) Should the choice product dashboard include both a short term (volatility) and long term (inflation) risk measure?**

National Seniors believes that the majority of members of superannuation funds, including older members have difficulty fully comprehending the current risk measures proposed for the dashboard. Therefore adding an additional risk measure would only increase the level of confusion. This assumption is supported by the Australian Securities & Investments Commission (ASIC's) consumer testing of the MySuper product dashboard as provided within the discussion paper.

National Seniors does not believe that the proposed long-term investment risk is an appropriate mechanism to highlight the impact of inflation to members. National Seniors believes that further consultation with stakeholders especially consumer groups is required to develop an appropriate long term risk measure.

Once an appropriate long term risk measure is developed there should also be an accompanying financial education program, to educate members on the impact of inflation on their investments.

**Q18.) Should a measure of liquidity be included on the choice and/or MySuper product dashboard?**

National Seniors believes that further consultation with stakeholders especially consumer groups is required to develop an appropriate liquidity risk measure.

Providing the current portability provisions remain within legislation, National Seniors believes that no additional liquidity measure is required urgently.

**Q20.) Which model of portfolio holdings disclosure would best achieve an appropriate balance between improved transparency and compliance costs?**

National Seniors believes that the obligation must be on the superannuation fund to fully disclose where it has invested its members' funds. National Seniors supports the current portfolio holding disclosure requirements, however additional disclosure measures (including the mandatory disclosure of funds' within collective investment vehicles) are required to allow members to be able to attain a complete understanding of their investments full risk profile.

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<sup>5</sup> MoneySmart (2013) *Tax & Super* Australian Securities and Investment Commission.

All other disclosure options leave members with a degree of uncertainty as to exactly where their money is invested and therefore do not provide an adequate level of transparency.

Further consideration should be given to increasing the disclosure requirement including:

- full name of the investment;
- domicile;
- details of who is managing the investment on the fund's behalf; and
- the disclosure of their exposure to derivatives (dollar value and as a percentage of all assets) to ensure the disclosure of each fund's true level of risk.

**Q23.) Is a materiality threshold an appropriate feature of portfolio holdings disclosure?**

National Seniors believes that a materiality threshold is not appropriate for portfolio holding disclosure and is contrary to the government's objective to enhance disclosure and allow members to attain an understanding and a level of engagement with their superannuation investments.

**Part 4.) Enhancing Competition in the Default Superannuation Market**

National Seniors believes the existing model and the options proposed with the discussion paper are too complex and do not have enough focus on the end user of the selected default superannuation product.

Competition is essential to ensure the best outcome for members, the choice of the default fund should not be inhibited by arbitrary numeric constraints, conflict of interests and decision makers who do not have the expertise required to determine the most appropriate fund.

**Q27.) Does the existing model (which commences on 1 January 2014) meet the objectives for a fully transparent and contestable default superannuation fund system for awards, with a minimum of red tape?**

National Seniors proposes the below system which is more streamlined and will allow for a more competitive environment and improve the outcomes for end users (the members of the fund).

**Step 1)** The Fair Work Commission (FWC) utilises an expert panel and hears cases from both parties (representative of employees and employers) to determine a set of unique characteristics that employees employed under the

specific award or enterprise agreement require from a superannuation fund. For example this could include low fees and charges; cover for death, total and permanent disability; income protection insurances; contributions rates and types for example salary sacrifice; types of pensions offered; and tax management options. Investment options or strategy are not included within the assessment of required characteristics.

**Step 2)** Any superannuation fund that has been awarded MySuper status by APRA can then apply to FWC to be ratified as a fund acceptable under a specific employment award or agreement.

National Seniors also does not support any limit on the number of funds which can be listed within the award as this effectively limits choice. Therefore to be acceptable, a fund would have to objectively demonstrate that they could satisfy all the specific award characteristic requirements as determined within Step 1.

Our proposed process eliminates the need to expend large resources debating which funds should be named in the awards based on arbitrary measures and points of difference and brings the focus back to what the end user (ie the future members of the fund) actually require from a superannuation fund.

## **Conclusion**

National Seniors believes that to achieve the objectives of the superannuation system, improvements are required within all aspects of superannuation regulation, governance, transparency and consumer protection.

As a minimum, members of superannuation funds should experience the same level of transparency, competition and consumer protection as shareholders of companies. The focus of superannuation funds should be on providing real choice and achieving adequate levels of retirement income which meets the needs of members.

National Seniors looks forward to continue working with the Australian Government to restore stability and certainty to the superannuation system and facilitating improvements in regulation and governance, and enhancing transparency for the benefit of all.