

29 May 2018

Mr Robert Jeremenko  
Head of Retirement Incomes Division  
Treasury

Via Email: [superannuation@treasury.gov.au](mailto:superannuation@treasury.gov.au)

Dear Mr Jeremenko,

**Re: Consultation Paper – “Protecting Super” budget proposals**

AustralianSuper is pleased to take the opportunity to make a submission in response to the consultation paper on the proposed ‘Protecting Super’ measures.

AustralianSuper supports the overarching objectives behind the proposals, particularly the focus on how RSE licensees should prioritize the quality and value of products and services they deliver to members.

**About AustralianSuper**

As you know, AustralianSuper is Australia’s largest superannuation fund and is run only to benefit its members. The fund has over 2.2 million members and manages over \$130 billion of members’ assets. Our sole focus is to provide the best possible retirement outcomes for members.

AustralianSuper is responsible for investing the superannuation savings of more than 10% of Australia’s workforce, and we take seriously our responsibility to act in the best interests of members in this process. With this in mind our general comments are as follows:

**1) Movement of inactive members with small account balances to the ATO**

AustralianSuper supports the move of inactive members with less than \$6,000 in their accounts to the ATO, subject to the following:

- We suggest the period of inactivity should cover 16 months instead of 13 months to more appropriately cover workers who have undertaken parental leave. Parents will typically recommence work after their parental leave and will often wait for up to three months for their superannuation contributions to reach their superannuation account, as the obligation to contribute Superannuation Guarantee contributions is quarterly. The period of inactivity needs to factor in this additional three month period to avoid their balance being transferred to the ATO when they have recommenced employment. Alternatively, these issues could be avoided if the Superannuation Guarantee obligation applied to parental leave payments, or if the legal obligation to contribute Superannuation Guarantee payments was monthly instead of quarterly.
- In the interests of accountability of Government agencies, the ATO should be subject to either a legislative timeframe or business benchmarking to determine their timeliness in reuniting members’ unclaimed monies with their active superannuation accounts.
- We assume that the abolition of the exit fee is intended to reduce member costs upon transfer to the ATO. It may have adverse outcomes for consumers who instead are subject to higher buy/sell spreads, which are asset based fees, not based on cost recovery, and not adequately disclosed to consumers presently.
- Without intervention, the absence of action on buy/sell spreads in this measure makes the government complicit charging higher exit fees through buy/sell spreads by forcing exits without consumer protection for amounts less than \$6,000. We suggest you consider buy/sell spread caps for exits for small accounts the same way you consider fee caps for small accounts more generally.

- We suggest that this requirement should not apply at all to pension accounts with amounts less than \$6,000 – these amounts should be paid to pensioner's accounts, not to the ATO. Pensioners may only be subject to this inactivity test because they have retired.

## 2) Cap on fees for amounts under \$6,000

AustralianSuper supports the intention to ensure small accounts are not eroded by fees, we make the following recommendations:

- The Explanatory Memorandum and the draft legislation are inconsistent – the EM talks about administration and investment fees deducted from member accounts, and the legislation refers to the administration and investment fees charged. This requires clarification in order for this requirement to be consistently applied.
- This measure should be retrospective instead of prospective in order to prevent gaming of the regulatory requirements. The proposed operation of the fee cap presents a gaming opportunity against funds which can be exploited by informed investors, to the detriment of the remaining members of the fund who will subsidise this arbitrage opportunity.
- The proposed fee cap applies on one day for an amount under \$6,000, and then applies to that account for six months. The next day the member can roll in \$500,000 and enjoy the reduced fee for six months. This is confirmed in the guidance example shown in paragraph 2.1 of the Explanatory Memorandum to the Protecting Super provisions. We believe that this requirement is reasonably intended to apply to amounts less than \$6,000, and not to a \$500,000 roll-in to a fund. The way this provision works needs to change otherwise it could be exploited by high account balance holders, with uninformed members paying higher fees to cover this arbitrage opportunity.
- The explanatory memorandum paragraph 2.20 indicates that a fee 'deducted at a reduced rate for a member of a MySuper product to align with the fee cap is not a contravention of a trustee's obligation to only charge fees in accordance with the charging rules.' We suggest that this issue requires further consideration in relation to the cross-subsidisation provisions as well.

## 3) Insurance changes

- AustralianSuper supports changes to insurance in relation to inactive accounts for 13 (prefer 16 as mentioned in item 1) months or more, so that insurance is not held if not directed by the member.
- AustralianSuper supports changes to insurance in relation to accounts for under 25 year olds, so that insurance is not held in new accounts for under 25 year olds.
- AustralianSuper does not support changes that exclude default insurance cover for those with account balances under \$6,000 because the measure serves to exclude all new members from default insurance until their account balance reaches \$6,000. We do not support this measure for the following reasons:
  - Better ways to address the multiple insurances issue:** We understand the key motivation for this measure is to address the issue of members with low salaries/balances having multiple accounts with multiple insurances across different funds. We acknowledge this issue and support appropriate initiatives to remove duplicate accounts wherever they occur (unless they reflect a deliberate strategy by the member). There is a better way to overcome the issue without denying cover or forcing gaps in cover for the majority of members. We would be happy to work with Treasury on appropriate solutions but one example is to extend the recommendations on the PJC report Life Insurance Industry. Recommendations 7.2 and 7.3 of that report are:
    - Recommendation 7.2 - The committee recommends that superannuation funds should be required to inform the Australian Tax Office of the type and status of the insurance that is held for the benefit of the member for each of their superannuation accounts.
    - Recommendation 7.3 - The committee recommends that, when it sends out individual annual tax assessments, the Australian Tax Office also provide a statement of superannuation and insurance, subject to system capacities and cost effectiveness, including information on:
      - the number of superannuation accounts held;
      - the number of life insurance accounts held through superannuation; and

- o the insured's right to seek information from the superannuation trustee about the balance, and the continued coverage or otherwise of any insurance policy.

A simple addition to this recommendation would be for the ATO to instruct all the funds except one (and the selection criteria for that one fund could be similar to those for determining the destination fund for inactive super) to instigate a cessation of cover process, either immediately or after a suitable warning to the member.

- ii. **Significant additional insurance risk and selection risk, raising the cost for everyone:** The measure makes insurance “opt in” at the time of joining the fund, which will either increase the risk profile of insurance business or lead to a requirement for underwriting which, in turn, will deny cover to many people.

There is a significant difference for adverse selection between providing automatic cover at times that the member *cannot* control, such as attaining age 25, and turning on cover at times the member *can* control, such as when the account balance reaches \$6,000. In the latter case, a member in poor health can simply make contributions in order to reach the \$6,000 threshold and trigger insurance. This leaves other members of the fund covering the additional risk, pushing up premiums for all members. Eccentric outcomes could also emerge - if a new member applies for cover and is declined on health grounds, should they later be provided with default cover upon reaching the \$6,000 threshold?

This proposal militates against sound insurance risk management in other ways. The proposed \$6,000 balance rule breaks the nexus between starting a job and being an acceptable insurance risk. There is no correlation between a members reaching a specific account balance and their health status, so that vital risk control is lost. One industry reaction may be to grant only “limited cover” upon reaching the \$6,000 threshold for cover to commence, meaning that the member would be covered only for health conditions that became apparent after their cover started. Whilst this technique is commonly used in the industry, such as when the member chooses additional cover without health assessment, its universal adoption to default insurance would be detrimental to members and diminish the value of the product. In essence it would constitute another “gap in cover” that would be opaque to many members.

An unintended but logical impact of the various gaps in cover will be to discourage fund choice by members and make it much less likely that a business would review its default fund arrangements.

- iii. **Discrimination against low income earners:** Low income earners will work longer until they can achieve default cover compared to higher income earners – this is not equitable and is inherently discriminatory.
- iv. **Does not cater for people who have career breaks:** It does not take into account the special needs of migrant workers and mature age workers returning to work who need cover. Migrant workers may not have the financial sophistication to proactively obtain cover yet may need it more – especially if working in dangerous occupations. Mature age workers returning to work may need this cover but not be able to obtain it without default cover due to their age. In particular, the measure is likely to discriminate against women who are more prevalent amongst mature age people returning to the workforce.
- v. **Application to members who have varied their cover:** We understand that the intention is for the 13 months inactivity cessation rule to apply to all insured members, unless they make a specific election for cover to continue. We understand that the below \$6,000 account balance cover cessation rule is not intended to apply where the member has, at some time, varied their insurance from the default level provided. We support this approach but suggest that the draft Bill be changed to clarify that where members have not completed the opt-in form but have increased, decreased or otherwise varied their insurance cover within the relevant timeframe, this should be considered an intention to opt-in to the insurance.

- vi. **Insufficient time for transition:** The transition timeframe is unrealistic. It would require at least 4 months between the data cut (1 April 2019) and delivering notices to members.

We suggest that sound risk management on insurance should allow members only one month to respond, as the longer the election period the greater the selection risk to other members in the insurance pool.

If the decision is to persist with the below \$6,000 account balance cessation rule then the time required to redesign our products, reprice them and make appropriate systems and process changes would require a significantly longer transition period.

It would not be possible to achieve those changes prior to July 1st 2020.

AustralianSuper supports the objectives and the bulk of the initiatives contained in the Federal Government's protecting super proposals. We have made some recommendations about how they could be improved in practice. We are strongly opposed to the proposal to exclude default insurance cover for those with account balances under \$6,000 for the reasons described in this correspondence. Accordingly, we suggest that this requirement (cessation of cover for accounts below \$6,000) be reconsidered entirely due to the expense and potential adverse effects on all insured members.

If you have any further queries please do not hesitate to contact Louise du Pre-Alba on 03 8648 3847, [lduprealba@australiansuper.com](mailto:lduprealba@australiansuper.com) or Richard Weatherhead on insurance matters on 02 8088 0836, [rweatherhead@australiansuper.com](mailto:rweatherhead@australiansuper.com) in the first instance.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'P. Schroder', with a stylized flourish extending to the right.

**PAUL SCHRODER**  
Group Executive Product, Brand & Reputation