

29 May 2018

Manager, Regulatory Framework Unit
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Treasury

**RE: Submission of the Inner City Legal Centre in response to the Treasury Amendment
(Protecting Superannuation) Bill 2018**

Introduction

1. We are the Inner City Legal Centre ('ICLC'), a community based generalist and specialist legal centre that provides access to justice for vulnerable people in our catchment area of inner Sydney and the northern suburbs of Sydney. We wish to make a submission to the Treasury regarding the exposure draft regulations that support the *Treasury Amendment (Protecting Superannuation) Bill 2018* Exposure Draft and Explanatory Materials ('exposure draft and explanatory materials').
2. As a not-for-profit legal centre, we often speak to clients who are concerned about their superannuation and the unnecessary fees incurred by holding multiple insurances as the result of duplicate life of income protection insurance accounts. It is therefore in our interest and a benefit to our clients for the process to be streamlined and for their superannuation to be better protected from erosion as the government is proposing.

Contextualising Superannuation

3. Superannuation is defined by the Australian Taxation Office ('ATO'), as the regular payment of money into a fund to provide for a person's retirement.
4. In Australia, superannuation is a major part of Australia's retirement income system. Together with the Age Pension and savings outside superannuation, it is vitally important in supporting Australians in their retirement years. Furthermore, while not addressed in the bill, we submit that the current tax/treatment concessions for superannuation in Australia overwhelmingly favour the wealthy and this works against low paid and part time workers (particularly females) building up their superannuation balances.
5. Currently, superannuation is a large savings vehicle for Australians, and yet fees or insurance arrangements are inappropriate to manage needs and are unnecessarily eroding these savings.

The Current mechanisms by which Superannuation savings are being eroded

6. At present, the provisions under the:
 - a. *Superannuation Industry (Supervision) Act 1993*;
 - b. *Superannuation (Unclaimed Money and Lost Members) Act 1999* and;
 - c. *Tax Administration Act 1953*,put Australians' retirement savings at risk of erosion through high insurance premiums and fees.
7. We agree with the Treasury that the main mechanisms contributing to fund erosion of Australian account holders with low balance, inactive and multiple accounts are:
 - a. The *Superannuation Industry (Supervision) Act 1993* does not limit the amount of administration fees and investment fees that can be deducted from a member's account for either choice or MySuper product. There are disproportionately high fees or inappropriate insurance arrangements and concomitant fees for accounts with balance less than \$6,000.00. While these accounts are subject to compulsory contribution, high passively incurred fees such as administration fees counteract balance growth. We submit that these default structures built into most MySuper accounts are highly regressive in their impact on low balance accounts and are a heavy burden on clients such as those we have at the ICLC where their compulsory superannuation contributions will become a vital source of income upon their retirement.
 - b. Many superannuation trustees automatically provide insurance coverage to members upon joining the fund. This default insurance requires a member to proactively 'opt out' of insurance if the member considers the insurance to be inappropriate for them. This complicated procedure can lead to duplicate or inappropriate insurance policies.
 - c. The *Superannuation (Unclaimed Money and Lost Members) Act 1999* requires a superannuation provider to pay the balances of accounts to the Commissioner where:
 - i. the person has reached preservation age and the fund has not received an amount within the last two years and fund has been unable to contact the person for five years;
 - ii. the person is deceased and the fund is unable to pay the benefit to the rightful owner;
 - iii. the amount from a super-split on divorce cannot be paid to a fund for receiving spouse;
 - iv. a member meets the definition of a 'lost member' under the act and either the account balance is less than \$6,000.00 or;
 - v. the account has been inactive for 12 months and the fund is unable to contact the member, or the member was a temporary resident who has left Australia.

The effect of this is that superannuation companies require longer periods of inactivity before the amounts are transferred and as a result, premiums continue to be charged and accounts continue to erode before they are eligible to be transferred. For many, this means that balance accounts are extremely low, if not depleted by the time they are transferred.

- d. Also under the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, the Commissioner may only consolidate the amounts he or she holds for a person with amounts held in a superannuation account when the person directs the Commissioner to do so. This difficulty or inability to transfer lost superannuation balances to the Commissioner of Taxation without direction, serves as a barrier to consolidating superannuation. We submit that this system is inefficient and discourages engagement with superannuation products.

8. It is our submission that not only do these current superannuation mechanisms place account holders in a precarious position regarding their opt out options and cancellation fees but it also means that many lower vulnerable people or people in the lower socio-economic demographic who are unable to remove themselves from high insurance premiums are losing funds for their retirement due to the ongoing erosion of their accounts.
9. We further submit that this cyclical arrangement is counterproductive and therefore, amendments would be particularly relevant for many of the clients that we see at ICLC as they are most largely affected by the current system.

Our Recommendations

We recommend the following:

Schedule 1:

10. ICLC agrees to the amendments to the *Superannuation Industry (Supervision) Act 1993* under Schedule 1 of the Treasury's exposure draft and explanatory materials. In addition, we submit that the removal of exit fees and the passively incurring fees that contribute to balance erosion and will create a sense of stability of funds for clients who rely solely on their superannuation.
11. We recommend that the Treasury consider that accounts with low balances and inactive accounts should have administration and other fees limited to some sliding scale related to the account balance. This would be greatly beneficial in reducing the risk of account erosion by fees.

Schedule 2:

12. Amendments to the *Superannuation Industry (Supervision) Act 1993* under Schedule 2 of the Treasury's exposure draft are welcomed by the ICLC as they specify the obligations that apply under the insurance covenant in the *Superannuation Industry (Supervision) Act 1993*.
13. These amendments, in addition to the op-out insurance coverage already in place, better recognises a broader demographic of people who engage with superannuation. We submit that this amendment will remove the confusion and concern for many of our clients who believe they are being taken advantage of under the current insurance covenant in the *Superannuation Industry (Supervision) Act 1993* due to the opt-out clauses embedded in their superannuation.
14. While we are optimistic about this reform, we recommend that the Treasury consider any unintended consequences for under 25s captured by the Schedule 2 reform who are in high-risk industries such as building and construction, who may be disadvantaged by not having an opt-in mechanism for life insurance.
15. We also recommend that the Treasury consider revising the opt-in age from 25 years old to 30 years old. This would be more appropriate for people to consider life insurance and will enable those who are under 30 who have not taken the life insurance option to have a better chance to build up their superannuation balances.

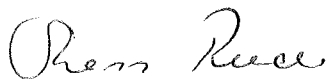
Schedule 3:

16. Amendments to the *Superannuation (Unclaimed Money and Lost Members) Act 1999* under Schedule 3 of the exposure draft requires superannuation providers and retirement savings account providers to pay the balances of accounts to the Commissioner where:
 - a. the account has been inactive for 13 months and the balance of the account is less than \$6,000.00 and;
 - b. gives the Commissioner greater powers to consolidate amounts held for a person who has an active amount with a superannuation provider or RSA provider without needing to be directed to do so by the person if they qualify for as a lost member under the Act.

17. We submit that while there is a current regime for transferring lost superannuation balances to the ATO to protect them from erosion, the regime is overly complex and limits the effectiveness of the policy.
18. Therefore, the ICLC welcomes the amendments outlined in Schedule 3 and recommends that the Treasury continue to take steps to reduce the number of low balance accounts held by lost members to encourage reduction of administrative costs for funds and better target default insurance coverage. This will increase efficiency where the Commissioner must pay the amounts held on behalf of a person to an active superannuation account. We also hope that these amendments will reduce insurance premium and fee duplication for members who do have an active account with a low balance.

We thank you for considering our submissions. Please contact the ICLC on 02 9332 1966 should you require further information.

Yours sincerely,
INNER CITY LEGAL CENTRE



Shann Preece
Acting Principal Solicitor