

8 June 2013

The Treasury  
Attention: Charter Group  
Langton Crescent  
PARKES ACT 2600

To Whom it May Concern

**Submission regarding the Council of Superannuation Custodians and Charter of Superannuation Adequacy and Sustainability Discussion Paper**

The Superannuation industry has grown to become a central pillar of the Australian economy. Over the past twenty-one years, a simple idea – to provide all Australians with independent savings for their retirement – has become more and more complex through constant legislative and regulatory change.

Given this, and the importance of superannuation to both the economy and individual Australians, I commend the Minister on his proposal to establish the Council of Superannuation Custodians to ensure that any future changes to superannuation are consistent with an agreed Charter of Superannuation Adequacy and Sustainability. I believe this is the single most important initiative to occur in superannuation since the commencement of compulsory contributions in 1992.

My submission focuses primarily on structures that will ensure the independence of the Charter and Custodians.

**Question 1 – What is your view of the core principles outlined above?**

**Question 2 – Are there any additional principles that are important in setting retirement income policy?**

The Core Principles Underpinning the Charter are appropriate. However, I would strongly recommend that, alongside the principle of political independence ('The policy considerations need to be de-politicised'), a principle enshrining commercial independence should be added (along the lines of 'The policy considerations must not be influenced by particular commercial interests within the sector').

This additional Principle is critical to ensure the single-minded focus of the Custodians on superannuation consumers, without the distraction of either commercial or political considerations. The Custodians charged with upholding the Charter will necessarily have deep industry expertise. As a result, the perception of

(or potential for) conflicts of interest is to some extent unavoidable. However, explicit reference to the maintenance of political and commercial independence in the Principles underpinning the Charter will help to mitigate this problem.

**Question 12 – Should the Charter be a policy document, or be enshrined in legislation?**

The Charter should be enshrined in legislation in order to provide certainty and give a greater level of protection from the whims of the government of the day, than would be afforded by a policy document. This is consistent with the Core principles underpinning the Charter to maintain continuity in the superannuation system and to depoliticise superannuation policy.

Given the complex landscape within which the Charter will need to operate (including interaction with the roles and responsibilities of other bodies), consideration should be given to a review of the Charter after a reasonable period of time elapses following its launch, to ensure it meets original objectives. Such a review should be undertaken by the Custodians, and include appropriate industry and community consultation.

**Question 13 – Should the Council also be able to examine and report on issues of its own initiative?**

**Question 14 – What powers should the Council be given in order to effectively carry out its role?**

**Question 15 – Should the Council have the capacity to recommend policy changes?**

Historically, there has been a tendency to rush through changes to superannuation policy reactively. At times, this has resulted in legislation that could be accused of not having a long-term view or, for example, fails to consider interaction with inter-related policy such as that relating to the Centrelink Age Pension. Better legislation tends to come when proposals are considered from multiple angles, with a completely independent view and a white paper or draft is produced, and adequate time is provided for consideration and consultation.

The Council should therefore have the capacity to initiate and recommend policy changes, as well as review any policy change under consideration. The Council should be given a minimum of six months to opine on any issue that is brought to them, giving sufficient time to consider, research and consult.

This requires that the Council also have adequate secretariat resources, including funds available for research and the use of consultants, to enable appropriate consideration of policy positions.

**Question 16 – How should the Council be assembled to adequately reflect the wide range of community views on superannuation?**

I believe the Council needs to be assembled so that the Custodians are completely independent, bipartisan and free of any conflict in order to effectively provide ongoing opinion and direction about our superannuation system.

I do not believe that this problem can be solved simply by composing a group that represents the various parts of the superannuation sector. Adopting this sort of model will result only in lack of focus on the stated principles of the Council's Charter, and instead be a representation of various, conflicting constituencies.

Instead, it should be a condition of becoming a Custodian that any commercial interest, directorship, executive position, or other association with any superannuation body is relinquished (other than that personal superannuation account balance held by the Custodian through a public offer superannuation fund or self managed superannuation funds).

However, if this independence were to be achieved, while at the same time attracting the right calibre of talent, it would be necessary to pay an adequate stipend. The cost of paying such a stipend would likely attract opposition. However, it can be easily argued that such a cost would outweigh the cost of policy changes that are not in the long-term interest of the industry and its members. Further, in the context of a \$1.5 trillion industry, the relative cost of paying such a stipend is negligible.

This model will ensure that the Council can attract individuals who are very experienced, but willing to give up their existing, paid roles within the industry, and each Custodian can operate in line with the Principles, without fear or favour. This ensures a model that attracts the appropriate expertise without the attached conflict.

The model I am proposing is consistent with the Reserve Bank of Australia (RBA), where current directors, officers and employees of deposit taking institutions are not permitted to sit on its Board of Directors. Further, legislation enshrines the political independence of the RBA. This way, the RBA is free of both political and commercial interference, and I firmly believe that, in order to be successful, the Council of Superannuation Custodians must enjoy the same independence.

Custodians must be selected based on expertise – not position, power or profile. Each Custodian would ideally have a breadth of experience across the industry, with careers that may have spanned industry, retail, corporate, self-managed and/or government funds. However, there also needs to be solid expertise and understanding from supporting areas of the industry including financial planners, custodians, lawyers, accountants, actuaries, demographers and tax advisers.

**Question 19 – What structure and supporting legislation is necessary to ensure the Council operates at arms length from Government?**

The Council should be established in the form of a statutory body with defined functions, powers and responsibilities. This is consistent with my recommendation that the accompanying Charter be enshrined in legislation (see Question 12).

To facilitate the Council implementing and upholding the Principles underpinning the Charter, it is critical that the Council operates at arms length from the government of the day. Establishing the Council as a statutory authority helps to ensure this.

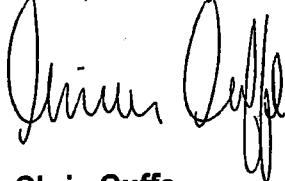
**Conclusion**

I am grateful for the opportunity to make a submission in response to this Discussion Paper. I have been closely involved with superannuation since the early 1980s including:

- founding Colonial First State, where a significant portion of assets were invested in retail superannuation products (including allocated pension products),
- as Chief Executive Officer of Challenger which is well-known as an annuity expert,
- as a former director of IFSA (now the Financial Services Council) for more than 10 years,
- operating my own Self Managed Super Fund,
- chairing not-for-profit superannuation fund UniSuper.

I believe the breadth of my experience leaves me well-positioned to provide valuable feedback on the establishment of the Charter of Superannuation Adequacy and Sustainability and Council of Superannuation Custodians. Please contact me directly on [REDACTED] should you wish to clarify any aspect of this submission.

Yours sincerely



**Chris Cuffe**