



AUSTRALIAN INSTITUTE of
SUPERANNUATION TRUSTEES

13 January 2020

The Manager
Retirement Incomes
The Treasury
Langton Crescent
PARKES ACT 2600

Email: superannuation@treasury.gov.au

Dear Sir/Madam,

Re: Consumer Advocacy Body for Superannuation - expression of interest

In brief:

AIST is supportive of measures which better enable members to navigate the superannuation system and provide additional member input into policy discussions. We however advocate that a Consumer Advocacy Body must operate in a way that is truly independent and justly represents all consumers, including vulnerable Australians.

AIST welcomes the opportunity to provide a submission in relation to the establishment of a Consumer Advocacy Body for Superannuation.

AIST is the peak-body for profit-to-member funds, our member funds operate under a business model to return profit to members only and always put members' best interests first. This unique members' first culture drives our decision making and is always the focus of our advocacy work.

This submission provides an overview of some of the challenges consumers face when navigating the superannuation system and touches on the key areas we firmly believe must be inherently incorporated in the proposed Consumer Advocacy Body for Superannuation (hereinafter referred to as the "Body") based on the extensive research we have undertaken in this sector.

Superannuation trustee obligations prioritise members best interest

It is worth noting that in contrast with other industries the best interests of superannuation members must already be prioritised by superannuation funds. As required by the SIS Act 1993, superannuation trustees are required to perform their duties and exercise their powers in the best interests of beneficiaries. In addition, the SIS Act requires a trustee to prioritise the beneficiaries' interests where a conflict arises.

Unfortunately, as highlighted by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry¹ an inherent conflict exists between the commercial interests of 'for-profit' superannuation funds and a trustee's obligation to give priority to duties to, and interests of, the beneficiaries. It is noted that most of the case studies involved conflicts between the duties to members and the interests of, or the duties owed to, the owner of the trustee company.

Navigating the superannuation system

We acknowledge that the second proposed area of focus for the Body would be to support access to educate and assist consumers to navigate the superannuation system. AIST welcomes measures to which enable members to make more informed decisions about their super. This is particularly important given Essential research that highlights a large cohort of Australians are still misinformed about how their super fund is performing and what type of fund they are in².

We do however highlight concerns that the responsibility should not necessarily be passed onto individuals to educate themselves in order to navigate such a complex system. In contrast consumer protection is needed through a strong default system, which has historically outperformed the choice sector, and further measures to make the system less complex.

Given low levels of financial literacy, proliferation in the number of choice superannuation products and poor data, we must be realistic about what we expect members to understand in relation to their superannuation. Evidence shows that even when members do exercise choice of fund there are risks that they could be worse off in retirement.

Although it is noted that the advocacy body will be required leverage current financial literacy initiatives, such as MoneySmart we highlight that given the overlap with the work of ASIC and AFCA there will be a need for clarity of the role and delineation of responsibilities. Particularly given that both AFCA and ASIC have both already established Consumer Advisory Panels.

Recommendations on establishment of a Consumer Advocacy Body for Superannuation

AIST provide the following recommendations for the structure and management of an independent Body;

- A semi-government body which acts independently, and therefore free of allegiance with, or reliance on, the financial services sector.
- Financial freedom from the financial services sector.

¹ Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2019), *Final Report, Volume 1*, 226-7. Available at: <https://tinyurl.com/y93raay5>

² Essential Research, Understanding the decision-making process of retail fund members (2019). Available from: <https://tinyurl.com/s85wcc1>

- A board and committee comprising of experts outside the financial services sector and no current employees or office holders from the financial services sector.
- A priority for truly representing vulnerable Australians on issues through advocacy and research. The body should be free to commission independent research to further its objectives, from universities and other independent institutions.
- Actual members should be actively consulted and involved prior to the lobbying and advocating of issues, in order to best represent and understand their views.
- The body must be accountable, preferably to the same body as financial services regulators, and to Parliament by way of regular Committee hearings (e.g. PJC).

Need for independence

The need for independence within the proposed Consumer Advocacy Body for Superannuation is paramount for the fulfillment of the Body's central purpose. This is due to the need for it to operate proactively and reactively in response to current legislation and areas of concern relating to the financial services sector. The objective of this is to support consumer's best interests and continually arising matters as opposed to in agreeance with the status quo. AIST firmly advises that the structure of the independent Body must operate in such a way that it is not reliant on funding or sponsorship from financial services sector, to prevent conflicts first and foremost.

A consumer advocacy body for superannuation must outline clearly to the public the purpose and structure of the Body, through a Customer Charter. This requires a clear outline of what services the Body provide, the processes in which these services follow and the customers rights to transparency and information throughout those processes. The charter must also include information for customers to complain about the Body if they are dissatisfied with the outcome of the service provided by the Body.

The Body should operate in a way of thorough disclosure, whereby board and committee minutes as well as submissions are made publicly available. Additional to this, members of these boards and committees should not have any representation from current employees and office holders in the financial services industry including employees of super funds or holders of AFSL and RSE licenses to avoid conflicts of interest.

As a recommendation of the Productivity Commission, this Body should operate in a way that provides services not currently available to Australian superannuation fund members in order to continue to serve their best interests. To do this, the Body should have independent thought from the financial services industry by undertaking research on emerging issues, consumer advocacy and provide key decision-making information to consumers.

Must truly represent consumers

For the Body to provide advocacy and research on behalf of members, it is vital that it receives direct input from actual consumers and that this input is then used to advocate on their behalf. It is fundamental for the Body to represent all Australians in a way that respects and embraces diversity, especially for the most vulnerable consumers – representing those who need the help most. In addition, it is fundamental for the Body to advocate for and represent Aboriginal and Torres Strait Islanders, women and people with disabilities as a priority.

As confirmed by the Productivity Commission, engagement with superannuation and education around financial literacy is critically low³. The Body should be structured in a way that uses expert knowledge to target both vulnerable and young Australians to increase these figures through programs, campaigns and initiatives such as MoneySmart. These actions should offer a unique approach in targeting these Australians to increase their knowledge and interest in superannuation. Therefore, the Body must not provide these services out of tokenism but should initiate research using representation from real Australians in order to make material improvement in these areas.

For further information regarding our submission, please contact Zach Tung, Policy and Regulatory Analyst on 03 8677 3851 or at ztung@aist.asn.au.

Yours sincerely,



Eva Scheerlinck
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$1.4 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

³ Productivity Commission, Superannuation: Assessing Efficiency and Competitiveness (2018). Report No. 91, Productivity Commission Inquiry Report, p. 21. Available from <https://tinyurl.com/ygheyqdu>