



Senator Andrew Bragg
Liberal Senator for New South Wales

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The Treasury
Retirement, Advice and Investment Division
Treasury
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By Email: superannuation@treasury.gov.au

To whom it may concern

I present the enclosed submission to the Treasury Consultation on the Superannuation Annual Members' Meeting Notices Exposure Draft.

I take this unusual step of providing a submission as a sitting Senator because of the scale of vandalism proposed in these reforms.

The reforms have barely commenced and therefore cannot be properly reviewed or given an opportunity to stamp out bad behaviour.

Yours sincerely

A handwritten signature in black ink, consisting of stylized initials 'AB'.

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The Landscape

The Australian superannuation sector is this country's most privileged industry.

Each year, superannuation funds charge approximately \$30 billion in fees. Australians entrust superannuation funds with the management of 10.5 per cent of their hard-earned wages. Cumulatively, the industry manages well over \$3 trillion of the retirement savings of Australian workers.

As a compulsory system, the Australian government has a special responsibility to hold superannuation funds to account, by putting the appropriate regulatory framework in place to guarantee that funds are working for members.

The least the government can do is ensure that members know where their compulsorily acquired wages are going.

For the majority of Australians, their superannuation will become their largest asset in retirement. Decisions around how members' money is managed and where it is spent should be deeply personal.

Members must have access to complete information about their fund's expenditure in order to make a fully informed assessment of their fund's performance.

Superannuation funds must operate under the highest standards of accountability and transparency.

Your Future, Your Super

During the 46th Parliament, the Liberal Government passed the *Your Future, Your Super* reform package. These reforms were directly informed by the Productivity Commission Inquiry into superannuation efficiency and competitiveness.

The Commission found that consistently underperforming superannuation funds were a central flaw of the system. The Commission also found significant evidence of trustees acting in ways that were inconsistent with the best interests of members.

That is why the Liberal reforms targeted underperformance and strengthened protections for members in the superannuation system.

According to the Treasury, *Your Future, Your Super* was set to save Australian workers \$17.9 billion over 10 years.

Your Future, Your Super achieved the following outcomes:

- It imposed a best financial interests duty on superannuation funds, with the burden of proof sitting with the fund to demonstrate how every expenditure would achieve positive financial outcomes for members.
- It required APRA to undertake annual performance tests of superannuation funds. A fund failing the test for two consecutive years would be disqualified from accepting new members.

- It established the online YourSuper Comparison Tool: An accessible platform for consumers to compare superannuation products and analyse their fund's performance.
- It required funds to hold Annual Members' Meetings. Before these meetings, members would be provided with a record of marketing and sponsorship expenses, political donations and union payments.

The Proposed Regulations

At 5.30pm on a Friday evening, Assistant Treasurer and Minister for Financial Services, Stephen Jones MP, put forward the Labor Government priority in superannuation reform: the *Superannuation Industry (Supervision) Amendment (Annual Members' Meetings Notices) Regulations 2022* ('the proposed Regulations').

The proposed Regulations represent an erosion of the Annual Members' Meetings, and the disclosure members were guaranteed under the *Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Improving Accountability and Member Outcomes) Regulations 2021* ('the YFYS—Improving Accountability and Member Outcomes Regulations').

The YFYS—Improving Accountability and Member Outcomes Regulations represented one of the most significant pieces of reform in the YFYS package.

The YFYS—Improving Accountability and Member Outcomes Regulations introduced Annual Members' Meetings, a mechanism for members to scrutinise their fund's financial management and ask questions of their trustees.

To ensure members are fully equipped to participate in the Meetings, the YFYS—Improving Accountability and Member Outcomes Regulations required funds to distribute an itemised table of expenditure across the following areas:

1. All promotion, marketing or sponsorship costs.
2. All political donations.
3. All payments to industrial bodies.
4. All payments made to related parties, which are defined as the following:
 - a. Connected entities,
 - b. Third party connected entities,
 - c. Entities with significant influence over the fund, or
 - d. Entities with whom the fund shares key management personnel.

The Labor Government's proposed Regulations would remove the requirement for a fund to provide an itemised record of expenditure (see figure 1).

Annual members' meetings allow discussion of the key aspects of the entity and provide members with a forum to ask questions about all areas of the entity's performance and operations.

Items 3 and 4 – Repealing the itemised disclosure of expenses requirements

Item 3 repeals paragraphs 2.10(1)(e) to (h) of the Principal Regulations, which set out the itemised disclosure requirements for certain categories of expenses. These expense categories include:

- promotion, marketing and sponsorship expenses;

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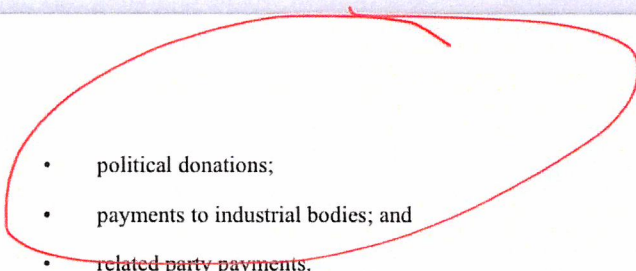
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- political donations;
 - payments to industrial bodies; and
 - related party payments.

Figure 1: Explanatory Statement, *Superannuation Industry (Supervision) Amendment (Annual Members' Meetings Notices) Regulations 2022*, pages 3-4.

A superannuation fund would merely be required to offer its members an aggregated sum of spending across the four categories.

Under the *YFYS—Improving Accountability and Member Outcomes Regulations* introduced by the Coalition government, an Annual Members' Meeting has to happen within nine months after the end of the financial year. As many superannuation funds have a 30 June financial year, this means none of the required disclosures have been made by the funds, as they traditionally hold their Annual Members' Meetings in November and December.

Should the proposed Regulations be adopted, superannuation members will once again be left in the dark and be presented less information for no apparent reason or plausible justification.

Related Party Disclosure

A great strength of the *YFYS—Improving Accountability and Member Outcomes Regulations* is that it adopted a broader definition of related parties, by going beyond the Australian Accounting Standards Board Standard 124, *Related Party Disclosures*.

The definition in *YFYS* captures bodies funded by superannuation money that would not be classified as related parties under the current definition in the *Corporations Act 2001* (Cth) or Standard 124. Unless disclosure is required, members will remain unaware as to whether entities which are effectively controlled by a superannuation fund are making donations or other related party transactions.

For example, AustralianSuper has an investment in Industry Super Holdings Pty Ltd, and association with The New Daily Pty Ltd (see figure 2). The New Daily is a propaganda outfit of the superannuation funds, used to attack political opponents and critics of superannuation. Under the proposed Regulations, superannuation funds may hide their investment in related parties, like The New Daily, from members through aggregated sums.

The Explanatory Statement does not explain the impact of the change on disclosure, but it is well understood that by moving to a narrow accounting definition entities will be excluded, and hence gaps will be introduced into the framework.

These gaps will become the vehicle by which payments, such as political and union donations, are made, as disclosures will not be required for these entities.

Having not yet seen the disclosures in practice, the Government will be changing this definition without knowing what transactions they will be excluding.

(c) Related party investments and transactions

Details of the Fund's related party investments and transactions are listed below.

(i) *Industry Super Holdings Pty Ltd (ISH)*

The Fund held a 19.95% (2020: 19.95%) shareholding in ISH valued at \$242,489,000 (2020: \$197,939,000). ISH has a number of subsidiary companies, one of which manages investments on behalf of the Fund; IFM Investors Pty Ltd (IFM) manages a selection of infrastructure, Australian listed equities, private equity, fixed interest and cash portfolios on behalf of the Fund.

IFM managed portfolios totalling \$49,182,018,000 (2020: \$52,570,977,000) on behalf of the Fund and received \$60,333,000 (2020: \$64,974,000) in fees for the management of these portfolios. These fees included fees paid to underlying investment managers for various portfolios and management fees paid directly to IFM of \$40,456,000 (2020: \$39,288,000). The income earned on the portfolios managed by IFM was \$3,308,063,000 (2020: (\$2,823,892,000)).

ISH has various other subsidiaries with which the Fund transacts. These non-investment transactions are summarised in the following table.

Company	Nature of transaction	2021 \$	2020 \$
Industry Funds Services Limited	Financial planning, arrears collection and other member services	1,766,000	2,203,000
Industry Super Australia Pty Ltd	Marketing services	5,070,000	5,070,000
IFS Insurance Solutions Pty Ltd	Insurance services	270,000	245,000

P Burn and I Silk are directors of Industry Super Australia Pty Ltd which is a subsidiary of ISH.

B Crofts and G Thompson were Directors of The New Daily Pty Ltd, a wholly owned subsidiary of ISH. During the year ended 30 June 2021, the Trustee paid B Crofts \$24,000 (2020: \$5,300) for being AustralianSuper's nominee on the Board of The New Daily. Subsequent to 30 June 2021, The New Daily Pty Ltd reimbursed the Trustee \$184,000 (excl GST), being the amounts paid, plus an interest adjustment, by the Trustee to its nominee directors on the Board of The New Daily since 2013.

Figure 2: AustralianSuper, Annual Financial Report, 30 June 2021, page 33.

Recommendation

The proposed Regulations should not be pursued until such time as a full year's worth of disclosures have been made by the superannuation funds.

The financial year 2021-22 is the first year the Annual Members' Meeting disclosures will be in operation. No review or change should commence until July 2023, after there has been a proper opportunity to evaluate the disclosures that have been made.

Concluding Remarks

The Labor Government's proposed Regulations seek to deny members the right to access full information about their superannuation fund's operations.

Australian workers are entitled to know how their retirement funds are being spent.

Mr Jones has attempted to justify the proposed Regulations in his Explanatory Statement, claiming that they will reduce the regulatory burden on superannuation funds.

Gathering individualised statements of gifts and payments is merely an exercise of good book-keeping and sound financial management.

Moreover, the funds will need to gather these individualised statements in order to provide an aggregate. This data exists, so why is the Labor Government opposed to letting members see precisely where *their* wages are going?

The Labor Government is opposed to superannuation fund disclosure because the funds are quickly becoming the biggest political donors in the country. Over the past four years, the superannuation funds have paid \$40 million to Labor Party-affiliated unions.

One would be hard pressed to find a policy which so shamelessly allows political and private interests to benefit at the expense of Australian workers.

The Labor Party has proved once again that it will always put vested interests ahead of the interests of Australian workers.