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Better regulation and governance, enhanced transparency and improved competition in superannuation

Response to the Discussion Paper of 28 November 2013

The Association of Independent Retirees (A.I.R.) Ltd, with national membership of 7,000 across 60 Branches Australia wide, represents the interests of self-funded retirees. Its Mission is to secure recognition and equity for Australians who, through their diligence and careful management, fully or partly self-fund their own retirement needs.

Submission Summary

The Association strongly supports the Government view that “superannuation regulation should maximise benefits to members, while minimising disruption and compliance costs to the sector.”

The Discussion Paper seeks feedback on a number of outstanding issues that may require further legislative and regulatory changes and which have the potential to add to regulation and its consequent administrative cost.

The issues in the Discussion Paper are centred on the industry. The Association submits that these issues cannot be considered in isolation from the views and needs of individual members. It is not enough to assume that members’ interests will align with industry need and regulation. There is a serious and growing dysfunction between the needs of members and the outcomes being delivered as a consequence of the structure of the industry. Adding further regulation based on some of the issues in the Discussion Paper will only exacerbate this dysfunction as we explain in this submission.

This submission describes the cumulative reduction in member retirement benefits arising from the existing account-based superannuation industry structure during both the accumulation phase and also the pension phase highlighting the dilution of member returns from multiple account fees, negative effects of regulatory restrictions on retirees, as well as the frustration to members from the complexity in accessing and managing their superannuation. The consequential regulatory and flow-on costs to Government and to members arising from the industry structure are described.

The submission welcomes the establishment of default provisions and of MySuper, which recognise the reality that a high proportion of members are unengaged with their

superannuation at various stages in their working life. It addresses the focus questions related to default provisions, and associated focus questions.

The submission argues that considerable simplification in regulation leading to saving of cost to Government, and increased returns to build members' retirement assets can be achieved by taking into account members' needs and expectations, rather than relying solely on the account-driven industry approach, which assumes that members' interests are served solely by maximising investment returns. Dealing with multiple accounts, a consequence of the industry approach, is the most commonly cited drawback leading to complexity, frustration and reduced accumulation of assets through dilution caused by multiple account fees.¹ Proposals to achieve these outcomes are described.

The submission notes the emphasis in the Discussion Paper on competitiveness in the regulation of default funds. The Cooper Inquiry found that realistic competition leading to industry efficiency could not be achieved in the existing industry structure, which was designed to include protection of industry fund interests. The recommendations in this submission support true market competitiveness built around superannuation funds developing competitive choice funds, competitive retirement products, and competition between all funds, industry, retail, and self-managed. Competition between default funds cannot be the driver for improving returns to members.²

Summary of responses to the Issues raised in the Discussion Paper

Part 1: A Better Approach to Regulation

Focus Question 1. The Association accepts the need for optimal regulation in superannuation at lowest possible cost. As a principle and as a means of reducing the cost of regulation to Government and removing duplicative costs to industry, superannuation regulation should be delegated to existing regulatory bodies and their associated regulations. As far as possible, the cost of regulation should be minimised by self-regulation through existing bodies such as the ASX. Regulatory bodies, such as APRA, and their existing associated regulations meet all of the requirements for good governance and for transparency in disclosure for APRA regulated superannuation funds.

Member needs can be addressed by adoption of the following principles with significant reduction in cost to members, thus enhancing the value of their ultimate retirement assets, and to Government and industry:

- (a) Engaged members and retired members should have the right for SG contributions to be made into their nominated fund. All taxed superannuation funds and modern awards should be made compliant with this principle.
- (b) Unengaged members should have only one member default fund into which all SG contributions are made during the member's working life.
- (c) The cost of existing systems developed because of the multiple-account industry structure can be reduced by combining them into one system. Such a system would

¹ ASFA Consumer Research 2013 presented Key Findings related to account consolidation. Respondents' most commonly cited drawback for having multiple super funds are the additional fees and charges incurred. They also cite that managing multiple accounts is confusing and complicated, the greatest challenges are completing excessive paper work, exit fees, differing rules/requirements - not to mention actually just getting around to it. www.superannuation.asn.au/policy/reports

² Cooper, J, Super Systems Final Report, Overview and Recommendations, 30 June 2010, www.supersystemsreview.gov.au

allow automatic transfer of previous SG contributions to the employee's new default fund on changing employment, and to employer nominated funds for new employees without a default fund. This would achieve a very significant reduction in multiple default accounts and would be of significant benefit to small business. All default funds should be made compliant with this principle.

- (d) Retirees undertaking work should have the option to nominate to receive the SG contribution as part of their remuneration.
- (e) The subsection of Regulation 1.06 of the SIS Act preventing contributions to an existing pension should be removed, at least for account-based pensions.

Part 2: Better Governance

APRA's prudential standards on governance for banks, life insurance and general insurance entities (CPS510) should apply to all superannuation entities. These should be supported by ASX Principles for listed company self-regulation; for example, the principles on director independence³. A new regulatory body adding to compliance costs should not be established.

Focus Question 2: the definition of independence should be as set out in APRA's prudential standard on governance for banks, life insurers and general insurers (CPS 510).

Focus Questions 3 & 4: the APRA requirements for a majority of independent directors for banking and insurance entities should apply.

Focus Questions 5 & 6: the only requirement should be for a Board to have a defined and transparent process for appointing Directors.

Focus Question 7: APRA's conflicts of interest prudential standard and associated guidance material requiring superannuation trustees to have a conflicts management framework and policies should apply.

Focus Questions 8 & 9: any requirements in the ASX principles for appointment and appraisal of performance of Directors should be applied. APRA should be required to include this requirement in prudential standards.

Focus Question 10: the APRA prudential standard for banking and insurance entities should apply to superannuation funds supported by the ASX principles where an issue is not addressed in the prudential standards. This is the lowest cost option and would provide clarity to Boards.

Focus Question 11: A date for compliance should be set by this Inquiry.

Part 3: Enhanced transparency

The overall guiding policy for dashboard design should be to provide easy to understand information that is relevant to individual member's interests (not industry interests) including those with limited financial knowledge. The information should be clear, unambiguous, and sufficiently detailed so that a reasonable person with limited financial expertise can easily understand what is being offered and make a reasonable and informed

³ Note that the SIS Act also contains a definition of Trustee/Director independence. It would be sensible to have this definition brought into line with the ASX principles.

choice between different products. The MySuper dashboard should reflect the lack of engagement of members while encouraging and educating members to take a more active interest. The information and terminology in the MySuper dashboard sample in Appendix A needs to be corrected with the most important data for a member, the Net Return, highlighted.

Unfortunately the Discussion Paper uses confusing terminology between the title of a measure and its description. The consistency of definitions used for data is as important as the presentation of data itself. APRA should be required to establish a standard set of data definitions to be used by all providers of dashboards, whether MySuper products or choice products.

Focus Question 13: regulation should be limited to specifying that the choice product dashboard should contain the MySuper dashboard requirements as a minimum to allow comparison between choice funds. The Comparison Graph (with the blue label corrected) should be included to give more precise information on annual performance. Superannuation funds should be encouraged to develop the choice product dashboard as a competitive instrument. For example, space should be provided to allow for a description of the choice product and its advantages.

Focus Question 14: as the choice product dashboard exists to allow comparison between choice funds the same definition must be used for all choice product return targets; this is easily calculated from a specified CPI. Where there is a special reason why the standard definition is inappropriate, an asterisk and note could be allowed.

Focus Question 15: for the reason given in the response to Focus Question 14, 'NET RETURN' (actual percentage amount the member will have credited to their account after ALL costs have been deducted including but not limited to administrative, investment, advice, wrap costs, and Government levies for a representative member PLUS the monetary amount for the representative member asset of \$50,000) should be the key measure provided. The item 'STATEMENT OF FEES' and other costs should include a clear explanation of how the fees are calculated (break up showing fixed and asset-size percentage components) to prevent manipulation by introducing new or higher charges for balances different to the representative amount of \$50,000. A standard agreed time horizon of ten years should be specified. Where the product has been offered for a lesser period, the period (and graph) should be specified otherwise incorrect conclusions can be drawn from recently established products.

Focus Question 16: only the 'Short-term investment risk' measure, as it currently exists, should be quoted on all dashboards because of its simplicity. The 'Long-term investment risk' measure contains more variables, which cannot be measured actuarially over twenty years with any accuracy.

Focus Question 17: the need to exclude certain specialist products from the dashboard requirement is accepted. However the proposed carve out where 'the sole purpose of the investment option is the payment of a pension to members, such as an allocated pension investment option', is rejected. The number of members retiring and taking superannuation pensions is increasing rapidly. Many funds are providing, or intend to provide, investment allocated pension products. Retirees, or those about to retiree, must have the ability to compare such products and the returns achieved in exactly the same way as for the accumulation phase for the obvious reason that the size and longevity of the pension

received is based on the size of the account balance at the beginning of each financial year. There appears to be no rationale for carving out this item, unless the intention is to remove transparency for non-competitive purposes.

Focus Question 18: the SIS Act requires a trustee to roll over or transfer member's funds within thirty days. Where there is a probability that a fund will not be able to meet this requirement because of the nature of the fund investments, this should be noted on the choice dashboard.

Focus Question 19: the commencement date for the choice dashboard should continue to be the 1 July 2014.

Focus Question 20: portfolio holdings disclosure should be limited to the information required to be provided to APRA under Reporting Standard SRS 532.0 Investment Exposure Concentrations. Consistency in reporting requirements between Agencies should be established as a principle to minimise cost to funds. Any changes should be the responsibility of APRA.

Focus Question 21: the least cost of compliance would be achieved by using the model recommended in the response to Focus Question 20.

Focus Question 22: portfolio holdings information should be presented on an entity level and not on an investment option level.

Focus Question 23 to 25: any materiality threshold should be established under APRA Reporting Standard SRS 532.0 Investment Exposure Concentrations.

Focus Question 26: the commencement date for portfolio holdings disclosure should be set by agreement between APRA and the industry.

Part 4: Improved competition in the default superannuation market

This submission proposes that the present industry structure should be modified to provide for one lifetime default product for each employee.

A single default fund can be achieved by:

- (a) The use of a member's tax file number as the primary identifier for the default fund⁴.
When an unengaged member changes jobs resulting in a new default fund nominated by the employer, assets in the previous default fund are automatically rolled over into the new fund at no cost.
- (b) Reviewing, modifying and integrating all superannuation related E-Systems to develop a purpose-designed system to automatically roll over any existing default fund assets into a new employee's default fund on changing jobs. SuperStream, already being paid for by members at no cost to Government, could be modified to be a suitable vehicle.
- (c) Appointing an administrator of the integrated system responsible for making transfers to all funds and managing the effect of changes in default fund providers. Where necessary the administrator may call tenders for the take-up of members of a closing default fund to encourage competition between default funds.

⁴ Default Superannuation Funds in Modern Awards. Productivity Commission Inquiry Report, [60](#), October 2012, Box 2

(d) Employees who decide to move some or all of their funds into a choice product should be able to choose any product in a truly competitive environment. As a consequence, employees would be free to nominate their own fund without being forced to commence a new fund.

Focus Questions 27 to 29: the existing model (which commences on 1 January 2014) and that proposed by the Productivity Commission do not meet the objectives for a fully transparent and contestable default superannuation fund system for awards, with a minimum of red tape. The existing APRA authorisation of MySuper products is sufficient with regular reporting on their performance. There is no need for a 'quality filter' as proposed by the Productivity Commission. The Fair Work Commission is not the appropriate body to assess the performance of default funds and recommend those judged to be appropriate to employers.

Focus Question 30: Modern awards should allow employers to choose to make contributions to any fund offering a MySuper product. The list is not extensive, particularly as electronic access to the list should be possible. Establishing an advisory list of high quality funds to assist employers in their choice would not assist in improving competition in the default superannuation market. Where an employer nominates a default fund for an employee, any existing default funds of that employee should be automatically rolled over into the employer nominated fund. As stated in the Cooper Review it is not possible to artificially establish competition for members between default funds.

Focus Question 31: Corporate funds should be encouraged to accept roll over of default funds for new employees and to roll over funds from existing employees who wish to move to a default fund.

Submission

The issues raised in the Discussion Paper need to be placed in the context of both the regulatory needs of industry and also the needs of members. These are increasingly being demonstrated to be in conflict. The focus of all recent superannuation inquiries, including this present one, has been on industry issues associated with the accumulation of assets. The needs of members are often stated or implied in Terms of Reference to be consistent with those of the industry, or not recognised at all. There has been almost no attention paid to Identifying and meeting the needs of retirees, the ultimate users of superannuation funds. The Cooper Review lamented the non-existence of an Association/body able to put the views of all members and could not suggest how member views could be put forward.⁵ This Association with a significant membership of self-funded retirees focuses on their needs, which clearly overlap into aspects of the accumulation phase.

As the superannuation sector has matured over the past twenty years, differences have emerged in the needs of members to those identified when compulsory superannuation was introduced. The proportion of superannuants reaching retirement age⁶ has reached about one-third of all superannuants and is rapidly growing because of the demographic structure of the Australian population. Experience with this growing group has identified a

⁵ Cooper, J, Super Systems Final Report, 30 June 2010, www.supersystemsreview.gov.au

⁶ In this submission, retirement means the age at which the condition of release has been met.

number of issues that impact on those in the Discussion Paper and should be addressed in the consideration of any regulatory change to the industry.

Work patterns of Australian employees have changed. The proportion of employees with permanency during their working life has reduced while the proportion undertaking multiple periods of employment with different employers has increased markedly. This has been a consequence of family income needs, greater flexibility to access employment, changing work patterns, and significant change to the structure of Australian industry, anticipated to continue for the foreseeable future. The consequence is that many Australians are forced to build up multiple superannuation accounts.

Frustration with multiple superannuation accounts increases as members approach retirement⁷. Their expectation is that they will receive a significant asset that has been accumulated by a superannuation industry in an efficient manner. Many do not want to engage actively in the process of building this compulsory saving asset. They especially do not want to receive fragmented multiple statements of varying amounts of assets at different times during a year.

The Cooper Review stressed that superannuation funds should provide optimal outcomes to unengaged members as well as encouraging interested members to engage and make choices⁸. The default provisions and MySuper were established recognising this lack of engagement. Unfortunately, the outcome is not the promised significant asset they expected; it is a fragmented set of multiple account assets.

Members of superannuation funds often have to accumulate new accounts when they change employment. Members of superannuation funds who take an interest in accumulating their retirement assets through a choice account find that the account is often not transferable when they change employment. An additional account must be established. Some members may choose to do this, but most are frustrated by the increasing complexity of their superannuation assets. Some funds are recognising the frustration of members arising from change of employment. For example, the Australian Super Website has a dedicated section on Changing Jobs and advertises with the slogan “Changing Jobs – Take your Super with you”. It sets out how this should be done⁹.

Unengaged members are often unaware that new accounts have been established leading to the need for Government to meet the cost of Superseeker, a system for identifying and recovering lost accounts¹⁰, the total now standing at over \$2billion. It is often not possible to commute these accounts to reduce the number of multiple accounts held by individuals. If it is possible considerable fees can be incurred¹¹.

⁷ ASFA Consumer Research 2013 presented Key Findings related to account consolidation. Respondents' most commonly cited drawback for having multiple super funds are the additional fees and charges incurred. They also cite that managing multiple accounts is confusing and complicated, the greatest challenges are completing excessive paper work, exit fees, differing rules/requirements - not to mention actually just getting around to it. www.superannuation.asn.au/policy/reports

⁸ Cooper, J, Super Systems Final Report, Overview and Recommendations, 30 June 2010, www.supersystemsreview.gov.au

⁹ A recent Industry Super advertisement (Channel 7, 29 December) highlights the ability of members to ‘take their super with them’ when they change employment. The statement is only partly true but demonstrates concern over multiple accounts.

¹⁰ Superseeker is administered by the ATO. Its website states that there is billions of dollars in unclaimed superannuation. Most of this arises from multiple employments resulting in multiple accounts.

¹¹ Australian Super recognises the need to check the cost of fees to combine accounts <http://www.australiansuper.com/superannuation/combine-my-super.aspx>.

Visitors to Australia with work visas often undertake casual work with a number of employers accumulating SG contributions. The Government has had to establish a system to return these contributions to visitors when they leave Australia.

Surveys have shown that the proportion of retirees, or intending retirees, intending to undertake work after retirement has grown rapidly to meet life-style expectations. A Suncorp Superannuation Report, November 2013 estimates that one quarter of retirees expect to continue to work into their 80s¹². Recent legislation has removed the upper age-limit on payment of the compulsory SG to achieve consistency of total remuneration across all working ages.

A majority of retirees have their assets in a single pension account. Because regulations prevent the addition of assets to an existing pension account, a new account must be established to receive the SG, often in a new fund because of limiting regulations and award conditions. This account may be an accumulation account or multiple pension accounts. However, there is no compulsion on retirees to maintain superannuation assets. As many are primarily interested in supplementing their pension income through work, inclusion of the SG amount with their remuneration is the preferred option removing the frustration, administrative circularity, dilution of the original SG contribution through fees, and delays in receiving their funds.

The cost in fees for a new accumulation account, or for multiple pension accounts, or for payment of the SG contribution into an account and immediately withdrawing it by retirees, reduces the net SG contribution. Administrative processes and delays in fund transfers are extremely frustrating for members. As the SG contribution increases to 12% of remuneration losses due to fees become a very significant loss of net remuneration.

Smaller size accounts generally incur a higher fee because of the proportion of fixed costs in the overall fee¹³. Consequently, multiple member accounts lead to higher total fees for members when compared with a single commuted member account. Dilution of retirement assets because of multiple member account fees is not transparent to members. This means that members are paying total fees in excess of the average size account fee advertised by the industry or contained in dashboard information.

Government has had to bear the cost of managing 'inactive' accounts to preserve the capital assets against fund administrative fee impositions, and to assist members to identify lost accounts. Commuting multiple accounts when identified is often not possible because of the industry structure. Where it is possible significant costs are involved.

Government has also had to set up a mechanism for paying SG accumulated amounts to overseas working visa holders when they depart Australia.

Multiple accounts have forced the ATO to set up systems to check that contribution caps are not exceeded by members.

Because of the account-based nature of the industry, Government has been forced to establish legislation to allow the use of Tax File Numbers in the administration of superannuation. The Government has had to set up SuperStream as a means of

¹² Rise of the Grudge Workforce, Suncorp Superannuation Research Report, November 2013,

<http://www.suncorp.com.au/super/sites/default/files/suncorp-super-the-grudge-workforce-report.PDF>

¹³ Australian Super Apple Check <http://www.australiansuper.com/superannuation/compare-us.aspx>

standardising and simplifying SG transfers between employers and funds. The cost of setting up SuperStream is estimated at some \$430million and paid by member levies.

It is nonsense to have multiple default accounts for an unengaged individual caused by the industry structure.

Because of the high proportion of superannuants unengaged with the detail of their superannuation holdings, and the negative impact of multiple accounts, Government should adopt the overriding policy that members should have only one member default fund into which all SG contributions are made during the member's working life. The purposes are: to reduce account fees – relatively higher for smaller accounts - thus maximising the return to members, to remove the frustration and complexity to individuals as they organise their retirement income, to reduce the need for compliance checks on caps across multiple accounts, to remove the need for Government agencies to hold inactive accounts and to assist members to identify and recover lost accounts, and to integrate multiple accounts for payment to casual visitors to Australia on their departure.

To reduce the number of multiple accounts members with choice funds or who work during retirement should have the right to nominate any of their existing funds to receive the SG where that is legally possible.

Response to Part 1: A Better Approach to Regulation

The present superannuation industry structure is account-based. It has led to:

- High costs to members in excess fees arising from multiple accounts and to retired members' returns from working.
- High cost to employers having to manage superannuation arrangements for new employees in the modern work environment where there is significant turnover of staff.
- High cost to Government in having to provide Government structures to:
 - Facilitate the transfer of SG contributions in small business
 - Facilitate the identification and recovery of lost accounts,
 - Make payments to overseas visitors with working visas on leaving Australia,
 - Make compliance checks on regulatory caps across multiple accounts.
- Potential for increasing cost to Government if Work Place Commission administration of default funds and MySuper is adopted.

Because the Government has legislated compulsory superannuation, and has accepted a superannuation industry based on achieving higher returns than from conservative financial institutions with the associated higher risk, Government has a responsibility to regulate the industry to an extent consistent with that higher risk. Regulation should be consistent with, and no greater than, that applying to public financial investment and insurance entities. Regulation beyond this level is unlikely to provide any cost-benefit in reducing risk.

Focus Question 1. The Association accepts the need for optimal regulation in superannuation at lowest possible cost. As a principle and as a means of reducing the cost of regulation to Government and removing duplicative costs to industry, superannuation regulation should be delegated to existing regulatory bodies and their associated regulations. As far as possible, the cost of regulation should be minimised by self-regulation through existing bodies such as the ASX. Regulatory bodies, such as APRA, and their existing

associated regulations meet all of the requirements for good governance and for transparency in disclosure for APRA regulated superannuation funds.

Member needs can be addressed by adoption of the following principles, with significant reduction in cost to members, thus enhancing the value of their ultimate retirement assets, and to Government and industry:

- (a) Engaged members and retired members should have the right for SG contributions to be made into their nominated fund. All taxed superannuation funds and modern awards should be made compliant with this principle.
- (b) Unengaged members should have only one member default fund into which all SG contributions are made during the member's working life.
- (c) The cost of existing systems developed because of the multiple-account industry structure can be reduced by combining them into one system. Such a system would allow automatic transfer of previous SG contributions to the employee's new default fund on changing employment, and to employer nominated funds for new employees without a default fund. This would achieve a very significant reduction in multiple default accounts and would be of significant benefit to small business. All default funds should be made compliant with this principle.
- (d) Retirees undertaking work should have the option to nominate to receive the SG contribution as part of their remuneration.
- (e) The subsection of Regulation 1.06 of the SIS Act preventing contributions to an existing pension should be removed, at least for account-based pensions.

Response to Part 2: Better Governance

The Government should act on the principle that superannuation funds are financial type entities, now mature and with considerable experience built over twenty years.

There are differences between financial type entities in Australia leading to different levels of risk. Governments have accepted responsibility for minimising risk across these entities, whether banking, insurance or managed investment. They have established Regulatory Agencies to provide protection against excessive risk.

Superannuation funds are another form of financial entity with their own characteristics. However, these characteristics are insufficient to justify establishment of a specific regulatory agency beyond that which applies to other forms of financial entities. The trend is toward dedicated superannuation funds becoming general financial entities. For example, most industry funds have broadened from their original union-based fund to now be public funds.

The role of Government is to regulate to ensure that superannuation entities are treated in the same manner as other financial entities but no further. APRA's prudential standards on governance for banks, life insurance and general insurance entities (CPS510) should apply to all superannuation entities. These should be supported by ASX Principles for listed company

self-regulation; for example, the principles on director independence¹⁴. A new regulatory body adding to compliance costs should not be established.

Focus Question 2: the definition of independence should be as set out in APRA's prudential standard on governance for banks, life insurers and general insurers (CPS 510).

Focus Questions 3 & 4: the APRA requirements for a majority of independent directors for banking and insurance entities should apply.

Focus Questions 5 & 6: the only requirement should be for a Board to have a defined and transparent process for appointing Directors.

Focus Question 7: APRA's conflicts of interest prudential standard and associated guidance material requiring superannuation trustees to have a conflicts management framework and policies should apply.

Focus Questions 8 & 9: any requirements in the ASX principles for appointment and appraisal of performance of Directors should be applied. APRA should be required to include this requirement in prudential standards.

Focus Question 10: the APRA prudential standard for banking and insurance entities should apply to superannuation funds supported by the ASX principles where an issue is not addressed in the prudential standards. This is the lowest cost option and would provide clarity to Boards.

Focus Question 11: A date for compliance should be set by this Inquiry.

Response to Part 3: Enhanced transparency

Part 3A Choice product dashboard

The MySuper dashboard, for unengaged members, should be simple and reflect the lack of engagement and mathematical literacy of members while encouraging and educating members to take a more active interest. Members are likely to take a more active interest at particular periods, such as changing employment or approaching retirement.

The most important information for an unengaged member is the **'Net Return'**, the amount actually paid to a members default fund. In the Discussion Paper, this is the measure claimed to be used on the MySuper dashboard. However, it does not exist on the MySuper dashboard example at Appendix A.¹⁵

All other information supplied is confusing to an unengaged member and in any event is secondary. An unengaged member must be totally confused when the 'Return' has been 7.1% over the last ten years (this should be labelled 'Investment Return'), yet the 'Return Target' to the individual is only 3%. [Note that the label on the Blue line is described as the average return target, but it is not. The average return target is net of CPI and costs.] Maintaining the 'Statement of fees and other costs' is a useful secondary measure but it is quoted in money terms when the 'Return Target' is quoted in percentage terms. There should be consistency in the use of monetary and percentage figures.

Unfortunately the Discussion Paper uses confusing terminology between the title of a measure and its description. The consistency of definitions used for data is as important as

¹⁴ Note that the SIS Act also contains a definition of Trustee/Director independence. It would be sensible to have this definition brought into line with the ASX principles.

¹⁵ Discussion Paper, Page 17

the presentation of data itself. APRA should be required to establish a standard set of data definitions to be used by all providers of dashboards, whether MySuper products or choice products.

Focus Question 13: regulation should be limited to specifying that the choice product dashboard should contain the MySuper dashboard requirements as a minimum to allow comparison between choice funds. The Comparison Graph (with the blue label corrected) should be included to give more precise information on annual performance. Superannuation funds should be encouraged to develop the choice product dashboard as a competitive instrument. For example, space should be provided to allow for a description of the choice product and its advantages.

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Focus Question 15: for the reason given in the response to Focus Question 14, 'NET RETURN' (actual percentage amount the member will have credited to their account after ALL costs have been deducted including but not limited to administrative, investment, advice, wrap costs, and Government levies for a representative member PLUS the monetary amount for the representative member asset of \$50,000) should be the key measure provided. The item 'STATEMENT OF FEES' and other costs should include a clear explanation of how the fees are calculated (break up showing fixed and asset-size percentage components) to prevent manipulation by introducing new or higher charges for balances different to the representative amount of \$50,000. A standard agreed time horizon of ten years should be specified. Where the product has been offered for a lesser period, the period (and graph) should be specified otherwise incorrect conclusions can be drawn from recently established products.

The MySuper dashboard includes a 'Level of investment risk' that specifies the probability of negative investment returns over twenty years. It has the terminology in the Discussion Paper 'Short-term investment risk'. The proposed 'Long-term Investment Risk', the probability that the time weighted net investment return over twenty years is less than the rate of increase of AWOTE plus a given percentage is a measure of risk attached to the 'Target Return' (where CPI is replaced by AWOTE, the more meaningful measure of inflation). From the point of view of a member it is clearly more appropriate as it measures the probability of retirement assets actually growing in real terms. However, it is a very difficult measure to understand and to estimate.

Focus Question 16: only the 'Short-term investment risk' measure, as it currently exists, should be quoted on all dashboards because of its simplicity. The 'Long-term investment risk' measure contains more variables, which cannot be measured actuarially over twenty years with any accuracy.

Focus Question 17: the need to exclude certain specialist products from the dashboard requirement is accepted. However the proposed carve out where 'the sole purpose of the investment option is the payment of a pension to members, such as an allocated pension investment option', is rejected. The number of members retiring and taking superannuation pensions is increasing rapidly. Many funds are providing, or intend to provide, investment allocated pension products. Retirees, or those about to retiree, must have the ability to

compare such products in exactly the same way as for the accumulation phase for the obvious reason that the size and longevity of the pension received is based on the size of the account balance at the beginning of each financial year. There appears to be no rationale for carving out this item, unless the intention is to remove transparency for non-competitive purposes.

Focus Question 18: the SIS Act requires a trustee to roll over or transfer member's funds within thirty days. Where there is a probability that a fund will not be able to meet this requirement because of the nature of the fund investments, this should be noted on the choice dashboard.

Focus Question 19: the commencement date for the choice dashboard should continue to be the 1 July 2014.

Part 3B Portfolio holdings disclosure

Focus Question 20: portfolio holdings disclosure should be limited to the information required to be provided to APRA under Reporting Standard SRS 532.0 Investment Exposure Concentrations. Consistency in reporting requirements between Agencies should be established as a principle to minimise cost to funds. Any changes should be the responsibility of APRA.

Focus Question 21: the least cost of compliance would be achieved by using the model recommended in the response to Focus Question 20.

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Focus Question 23 to 25: any materiality threshold should be established under APRA Reporting Standard SRS 532.0 Investment Exposure Concentrations.

Focus Question 26: the commencement date for portfolio holdings disclosure should be set by agreement between APRA and the industry.

Response to Part 4: Improved competition in the default superannuation market

The Cooper report accepted that the model of member-driven competition through 'choice of fund' has "struggled to deliver a competitive market" that reduces costs for members¹⁶. He defined 'market' as that between funds competing for the business of a new member. The proposal in this submission recognises that such a market cannot be developed through the default superannuation system.

To achieve transparency and contestability, the amendments to the Fair Work Act 2009 requiring the Fair Work Commission to review default superannuation funds in modern awards every four years were introduced leading to a two-stage process to select default funds. The first stage has an expert panel assessing applications and compiling a list of suitable funds. The second stage involves the Full Bench of the Fair Work Commission selecting up to 15 default funds in each award. In addition, there is a separate process for approving MySuper funds by APRA.

The Productivity Commission recommended that a new Default Superannuation Panel within the Fair Work Commission should list all MySuper products that meet a set of criteria

¹⁶ Cooper, J, Super Systems Final Report, Overview and Recommendations, 30 June 2010, www.supersystemsreview.gov.au

and, wherever possible, list a small set of MySuper products judged as best meeting the interests of the relevant employees.

Both proposals ignore the fact that employees are likely to change their employment a number of times during their working life. A list applying in one modern award may be different to that applying in the award to which the employee becomes subject as employment changes.

Both proposals require selection of a limited number of funds using a process of judgement by a panel from a set of criteria, often set by the panel as more detailed than that applying to the approval of a MySuper fund in the first place. The Fair Work Commission's responsibilities are not apposite to making decisions on the quality of financial entities.

Both proposals require regular re-assessment of the products listed in modern awards. The Productivity Commission proposes a 'quality check' process. However, there is no consideration of the consequences for a product, or the members in the fund, or for the panel making the decision, if a product is judged to be unsatisfactory on review. There is no process for bringing the fund into line with the criteria or removing it from a list.

Both proposals add significant compliance cost and bureaucratic process and cannot add value to the quality of default funds. The fact is that both proposals are complex, artificial, and rely on judgement from a set of criteria. They simply provide a costly selection and re-assessment process on top of the MySuper approval process as a means of artificially distributing employees across superannuation funds.

The issue of maintaining efficiency and maximising returns in default funds in a non-competitive environment is not included in either proposal. Efforts to establish an artificial competitive market should be rejected and replaced with regular public data comparisons of the performance of MySuper funds through the MySuper dashboard and APRA data collections.

This submission proposes that the present industry structure should be modified to provide for one lifetime default product for each individual employee.

A single default fund for each member can be achieved by:

- (a) The use of a member's tax file number as the primary identifier for the default fund¹⁷.
When an unengaged member changes jobs resulting in a new default fund nominated by the employer, assets in the previous default fund are automatically rolled over into the new fund at no cost.
- (b) Reviewing, modifying and integrating all superannuation related E-Systems to develop a purpose-designed system to automatically roll over any existing default fund assets into a new employee's default fund on changing jobs. SuperStream, already being paid for by members at no cost to Government, could be modified to be a suitable vehicle.
- (c) Appointing an administrator of the integrated system responsible for making transfers to all funds and managing the effect of changes in default fund providers. Where necessary the administrator may call tenders for the take-up of members of a closing default fund to encourage competition between default funds.

¹⁷ Default Superannuation Funds in Modern Awards. Productivity Commission Inquiry Report, 60, October 2012, Box 2

(d) Employees who decide to move some or all of their funds into a choice product should be able to choose any product in a truly competitive environment. As a consequence, retirees would be free to nominate their own fund without being forced to commence a new fund.

Focus Questions 27 to 29: the existing model (which commences on 1 January 2014) and that proposed by the Productivity Commission do not meet the objectives for a fully transparent and contestable default superannuation fund system for awards, with a minimum of red tape. The existing APRA authorisation of MySuper products is sufficient with regular reporting on their performance. There is no need for a 'quality filter' as proposed by the Productivity Commission. The Fair Work Commission is not the appropriate body to assess the performance of default funds and recommend those judged to be appropriate to employers.

Focus Question 30: Modern awards should allow employers to choose to make contributions to any fund offering a MySuper product. The list is not extensive, particularly as electronic access to the list should be possible. Establishing an advisory list of high quality funds to assist employers in their choice would not assist in improving competition in the default superannuation market. Where an employer nominates a default fund for an employee, any existing default funds of that employee should be automatically rolled over into the employer nominated fund. As stated in the Cooper Review it is not possible to artificially establish competition for members between default funds.

Focus Question 31: Corporate funds should be encouraged to accept roll over of default funds for new employees and to roll over funds from existing employees who wish to move to a default fund.

End of Submission:

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