



20 January 2020

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: economics.sen@aph.gov.au

Dear Committee members,

Re: Treasury Laws Amendment (Your Super Your Choice) Bill 2019

I thank the Committee for the opportunity to make these brief observations regarding the Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019 (the Bill).

Industry Super Australia (ISA) undertakes policy research and advocacy on behalf of over five million members of industry superannuation funds, to ensure that the policy settings for superannuation are consistent with the objective of maximising their retirement incomes.

ISA has made submissions regarding previous proposals to amend superannuation law to prohibit arrangements which restrict choice of fund. In these submissions ISA has emphasised the importance of ensuring adequate consumer protections are in place to ensure genuine and informed choice is available to employees. ISA reiterates the views expressed in previous submissions.¹

The system must connect employees with high quality funds

Underperforming super funds are the single most costly drain on members' retirement savings, with the Productivity Commission finding that the difference between a person being in a good fund and a dud fund was more than \$500,000, with most underperforming funds being retail funds.²

The Government, regulators and the sector all have a responsibility to deal with underperformance. Underperforming funds have no place in a taxpayer funded system. With most workers not exercising choice of fund, there must be a robust and transparent means through which employees are connected with a single, quality checked, high-performing fund

¹ See <https://www.industrysuper.com/media/improving-accountability-and-member-outcomes-in-superannuation-measures-no-2-choice/>

² Productivity Commission 2018, *Superannuation: Assessing Efficiency and Competitiveness*, Report no. 91, Canberra.



with good returns and low fees. The Australian workforce has a reasonable expectation that the system be designed to work in their favour.

The success of the system is appropriately measured by the quality of funds that are selected as default funds. The Productivity Commission's findings recognise that in this respect the system has performed well to date. But we can do better. A critical factor in success of the system is ensuring that employers and workers are supported through the vetting of default funds by the Expert Panel of the Fair Work Commission (FWC) to ensure that only high quality and appropriate funds receive employer superannuation contributions on behalf of those employees who do not exercise choice.

While the overwhelming majority of Australian workers already have the opportunity to choose which super fund their employer contributions go into, most do not exercise choice and continue to rely on the default system to ensure that their contributions are going into an appropriate fund.

In its review the Productivity Commission also concluded that members of default funds listed in modern awards and enterprise agreements had been well served, with 9.6 million or 85 per cent of them obtaining above benchmark returns in the decade to 2018. It did however also find that there were still 1.5 million employees who failed to achieve above benchmark returns and worse still there were millions more in costly and poor performing choice super products.

Funds wanting the privilege of managing default contributions whether by being named in a modern award or an enterprise agreement should meet a high standard. This privilege should be the preserve of only those funds that can deliver member value through net returns above a transparent performance benchmark.

A strengthened default system is critical to achieving this reality. The government should take the necessary steps to appoint members to the FWC Expert Panel to enable the expert panel to convene and begin the process of ensuring that only high-quality funds are named as default funds in modern awards.

Quality processes should apply to enterprise agreements

The same member interest first approach discussed above should be applied by the FWC when employers and employees seek ratification of enterprise agreements that contain a restriction on choice of superannuation fund.

Most employees have choice and often benefit where choice is restricted

ISA's analysis in 2017 of a sample of enterprise agreements ratified by the FWC found that 82 per cent of all employees covered by agreements had no restriction on choice of fund and that only 1.9 per cent of the workforce had some form of restriction on choice of fund.

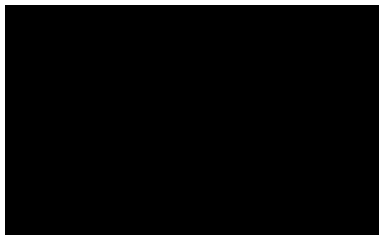
ISA's work also noted that where choice was restricted there were specific factors, including the provision of industry relevant insurance in high-risk industries; mechanisms to provide for

compliance and payment of superannuation contributions in industries with high rates of non-compliance and addition superannuation benefits, including higher than SG contribution rates.³

There should be a presumption that choice of superannuation fund will be available to employees. Where an agreement proposes, following collective endorsement by employees and the employer, that the choice of superannuation fund is restricted, it is appropriate that the FWC be empowered to approve the restriction of choice where it can be demonstrated that doing so is in the interests of the employees covered by the terms of the relevant enterprise agreement by reference to the quality of the nominated superannuation fund.

I would be happy to discuss these matters further should the Committee desire. Please contact

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Bernie Dean

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Industry Super Australia

³ Nearly a quarter of all enterprise agreements in the education sector provided for above SG contributions to specific funds.

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