

# CORPORATE SUPERANNUATION ASSOCIATION Inc.

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

E-mail: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Sir

**TREASURY LAWS AMENDMENT (IMPROVING ACCOUNTABILITY AND MEMBER  
OUTCOMES IN SUPERANNUATION MEASURES NO. 1) BILL 2017  
SUPERANNUATION LAWS AMENDMENT (STRENGTHENING TRUSTEE  
ARRANGEMENTS) BILL 2017**

We refer to the invitation to make a submission to the Committee.

**The Corporate Superannuation Association**

Established in 1997, the Association is the representative body for large corporate not-for-profit superannuation funds and their employer-sponsors. The Association now represents a total of 23 funds controlling \$49 billion in member funds, held in a total of some 275,000 individual accounts. Of these funds, 14 have outsourced trustee services but maintain significant employer interest through policy committees.

In general, these funds are sponsored by corporate employers, with membership restricted to employees from the same holding company group, but we also include in our membership two multi-employer funds with similar employer involvement and focus. A number of our funds have defined benefit divisions.

Size, in terms of funds under management, ranges from \$17 billion to \$64 million as at 30 June 2016. Some of the smaller funds have their place in the pension fund structures of international groups, hence play an important role in the care and welfare of the worldwide workforces of these groups.

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### **Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2017**

Although we fully support the protection of members' interests in superannuation, we question whether there has been sufficient concern regarding fund performance and integrity to make the introduction of these further measures necessary. We accept that there are funds that perform poorly, but focused oversight over the known underperformers could be more effective. The focus on regular detailed comparison between funds will have the benefit of comparison benchmarking, but will also encourage homogeneity of product and performance.

This will reduce the effective choices open to consumers.

Further, we note that although the legislation will be specific about the new reporting and integrity measures, there are additional powers pervading the proposed legislation that will allow APRA to modify the effect of nearly every provision through regulation and standards-making powers. We understand the need for flexibility for the Regulator, but suggest that there needs to be a balance to the power of the Regulator to make law. The Regulator, although already equipped with extensive powers to protect funds and their members, has rarely exercised these.

#### ***Annual MySuper outcomes assessment***

The outcomes assessment will be costly in terms of assessment and reporting, and will affect smaller funds and their members more severely than larger entities.

Step Two of the proposed annual process gives rise to concern, particularly in relation to investment strategy. Although at its best the process would facilitate competition through peer benchmarking, there is a corresponding risk that trustees will converge towards extremely cautious strategies to avoid investment risk so as to avoid any adverse comparison in any year.

#### ***Directors' exposure***

The introduction of civil penalties will make it harder to find competent and non-conflicted directors for superannuation funds. The inability to insure against the risk of incurring civil penalties will undoubtedly reduce the field of individuals willing to undertake the role. This will impact honorary directors serving the interests of members and of the employer-sponsors, as well as deterring valuable talent from the limited pool of non-conflicted persons with suitable skills to enhance board capabilities. The available pool will shrink, constrained to those who are ignorant of, or believe themselves unaffected by, the attendant risks.

#### ***Annual members' meeting***

Given that an annual members' meeting (**AMM**), as proposed, will be for provision of information only, we question the value to members of single employer-sponsored funds and other non-public offer funds, where there are other more immediate avenues (through the employer, through employee representatives) for members to raise concerns.

We understand that with public offer funds there are stronger arguments for a forum, or other mechanism for policy committees or other member representatives to raise concerns, and that there should be a higher level of accountability.

We would support a move to exempt non-public offer funds from this requirement, which, as proposed, will augment costs to members without corresponding additional benefits.

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### ***Reporting standards***

The burden of reporting and compliance should not be increased without obvious compensating benefits. The proposed enhanced reporting standards for management and operation expenses would have the benefit of opening to scrutiny payments to related parties and generally enhancing trustee accountability. On the other hand, the proposed form of the reporting as outlined in proposed subsection 13(4D) *Financial Sector (Collection of Data) Act 2001* will increase the compliance burden and the amount of data for APRA scrutiny.

We would like to see the proposed disclosure requirements operated in a realistic way, with focus on related party payments and reduced compliance required for routine small payments to non-related parties.

### **Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017**

We urge that special consideration be given to situations where employee representatives have been elected by the member body, and that relief from the one-third independent director requirements be extended to these cases (typically in funds with membership restricted to employees of a single employer or a specific group of employers, in general non-public offer funds).

### ***Member elected trustees***

The situation where members directly elect their own representatives rather than relying on appointments by unions or other representative bodies, has certain governance benefits arising from the alignment of interests of members and trustee. We contend that where there is immediate member accountability, the best interests of the members are observed.

In a fund that is not a public offer fund, we believe that member interests are better served in this way than by statutorily imposed trustee directors who have no connection with the workforce and no prior understanding of the employment situation and the members.

Yours faithfully



*PP*  
**Mark N Cerché**  
Chairman  
Corporate Superannuation Association Inc