

NATIONAL SECRETARIAT

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**Trustee  
Corporations  
Association  
of Australia**

18 January 2007

Ms Jackie Morris  
Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Ms Morris

**Inquiry into the Bankruptcy Legislation Amendment (Superannuation Contributions) Bill 2006**

Thank you for inviting the TCA to make a submission to the above inquiry.

The TCA is the peak representative body for the trustee corporations industry in Australia.

Our members include all the Public Trustees and most of the private statutory trustee corporations.

Our members do not act as trustees within the personal insolvency system.

However, the various services provided by our members to clients include acting as trustee and/or administrator for a large number of superannuation funds.

Superannuation assets currently managed / administered by TCA members amount to about \$20 billion.

Further details on the range of services offered by trustee corporations are outlined in the attachment.

ANZ Executors &  
Trustee Company

Australian Executor  
Trustees

Elders Trustees

Equity Trustees

National Australia  
Trustees

Perpetual

Public Trustee for the  
Australian Capital  
Territory

Public Trustee  
New South Wales

Public Trustee for the  
Northern Territory

The Public Trustee of  
Queensland

Public Trustee  
South Australia

The Public Trustee  
Tasmania

Public Trustee  
Western Australia

Sandhurst Trustees

State Trustees

Tasmanian Perpetual  
Trustees

Trust

We support the proposed amendments to the *Bankruptcy Act 1966* which aim to give bankruptcy trustees the ability to recover contributions to superannuation funds where these have been made with the deliberate intention of defeating the claims of creditors.

It seems only fair and reasonable to put such superannuation assets on the same footing as other assets which would be recoverable by a bankruptcy trustee.

We agree that the proposed approach to addressing this issue will avoid unnecessarily complicating the superannuation and bankruptcy systems.

Yours sincerely

A handwritten signature in cursive script that reads "Ross Ellis".

Ross Ellis

Executive Director

# TRUSTEE CORPORATIONS ASSOCIATION OF AUSTRALIA

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The Trustee Corporations Association, formed in 1947, is the peak representative body for the trustee corporations industry in Australia. Its main objectives are to:

- represent and advance the interests of member statutory trustee corporations with government, regulators and the wider public,
- serve as a forum for discussion on matters of mutual interest to members,
- provide an education program and set professional standards for officers of statutory trustee corporations, and
- provide centralised services for members, including complaints handling and maintenance of industry data.

The Association represents 17 organisations, comprising all 8 Public Trust Offices and the great majority of the 11 private statutory trustee corporations.

The Association operates out of premises in Sydney. It is controlled by a National Council, which comprises the Chief Executive Officer of each member institution, and an Executive Committee, made up of a small group of those persons.

## **Member products and services**

In the 1870s, Governments first enacted legislation to extend the role of executor or administrator of a deceased estate, traditionally taken on by a natural person, to licensed trustee corporations.

This was to benefit the public by providing greater expertise and resources than are available from an individual, together with perpetual succession to a client establishing a long-term trust.

Within the next decade, most of the trustee corporations now authorised under relevant State and Territory law were established.

Today, trustee corporations provide a wide range of wealth management products and services to individual, family and corporate clients.

These include:

- **Traditional personal wealth management**

### Wealth protection and transfer

- estate planning
- writing wills
- acting as executor of deceased estates
- establishing, and acting as trustee of, personal trusts, including testamentary trusts
- administering client assets under Powers of Attorney

# TRUSTEE CORPORATIONS ASSOCIATION OF AUSTRALIA

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## Protecting vulnerable members of the community

- acting as financial manager or guardian, usually under a Court or Tribunal order, for persons unable to look after their own affairs, including minors and the intellectually-disabled

## Administering charitable trusts and foundations

- including for medical research, galleries, museums, and education scholarships

### • **Other personal business**

- trustee or administrator for small superannuation funds
- providing tax advice and preparing tax returns
- financial planning

### • **Funds management**

- offering most types of unit trusts and common funds

### • **Corporate activities**

- registry operations
- custodial services
- trustee for debenture and convertible note issues
- securitisation facilities
- compliance monitoring
- trustee or administrator for retail superannuation funds

## Industry statistics

In aggregate, trustee corporations have about \$370 billion of assets under administration, and capital resources of about \$1 billion.

TCA members manage over 1,700 charitable trusts and foundations with assets of about \$2.6 billion; in 2004/05 they distributed \$140 million to worthy causes.

They employ about 3,400 staff in over 80 offices located in all States and Territories of Australia.

Almost 2 million Australians have their wills recorded with trustee corporations.

Each year trustee corporations:

- write about 70,000 wills and powers of attorney
- administer about 11,000 deceased estates
- administer assets under agency arrangements or Court / Tribunal orders for about 45,000 people
- prepare about 50,000 tax returns