NATIONAL SECRETARIAT

Level 22, 68 Pitt Street, SYDNEY NSW 2000
GPO Box 1595, SYDNEY NSW 2001

Telephone: (02) 9221 1983 / 9221 2404
Facsimile: (02) 9221 2639
E-mail: association@trustcorp.org.au

18 May 2001

TCA

Trustee Corporations Association of Australia

Presiding Commissioner Cosgrove
Review of Certain Superannuation Legislation
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

Dear Commissioner Cosgrove,

Review of the Superannuation Industry (Supervision) Act 1993 and certain other Superannuation Legislation

Thank you for visiting the Trustee Corporations Association of Australia (the Association) in February of this year to gain our perspective on certain Superannuation legislation that you are reviewing. As indicated at that meeting, we have particular concerns in relation to Small APRA Funds (SAFs) and, as promised at the meeting, we provide below a submission setting out our views more formally.

We are particularly concerned that certain aspects of the current Superannuation regime, specifically the supervisory levies and the timeframe for lodging APRA returns, operate to penalise those who wish to appoint a professional trustee to manage their superannuation assets. We submit that diminishing the relative attractiveness of SAFs by any such discriminatory regime is contrary to the Federal Government's Retirement Incomes policy.

1. Background on SAFs

Member organisations of our Association act as approved trustees for several thousand Small APRA Funds (SAFs). The assets of these funds total around $1 billion.

SAFs are essentially the same as Self Managed Super Funds (SMSFs):

- Both have less than five members.
- Both are chosen often because they offer scope to invest in assets additional to those available from Master Superannuation Funds or Corporate Superannuation Funds.
- The accounting data from some of these additional investments offered by SAFs and SMSFs can take a considerable period to put together. Consequently, neither SAFs nor SMSFs can normally report as quickly as Master Funds or Corporate Funds.

The main difference between SAFs and SMSFs is essentially that SAF members do not wish to take on the administrative, reporting and compliance responsibilities associated with being a trustee of an SMSF, and they appoint a professional trustee to do this for them. The professional trustee will ensure that the investments made by a particular SAF comply with Superannuation and Tax requirements, as well as the particular requirements of the trust deed.

2. Our Concerns

2.1 Disparity between APRA Levies for Prudential Regulation of SAFs as against other Super Funds

In relation to superannuation, APRA's prudential supervision is focused primarily on the management and operations of an arms length responsible entity (the trustee) entrusted with the management of member superannuation benefits. Therefore, whilst it is entirely appropriate for an Approved Trustee to be regulated by APRA, we do not believe this supervision should extend to the many thousands of small superannuation funds with less than 5 members. As is the case for SMSFs, we believe the ATO has the appropriate resources and administration efficiencies to supervise such funds, leaving the prudential supervision of arms length responsible entities to APRA.

APRA's supervisory role would therefore be to check the policies, procedures and operations of each entity that manages the contributions of many clients. APRA has no need to 'drill down' to investigate the way in which such a manager addresses each and every one of its thousands of contributing entities, and in practice APRA does not do this now. As an example, one of our members with many contributors recently had its first visit from APRA in three years, in which four APRA staff visited for about three days. We feel that this approach is entirely appropriate.

2.1.1 APRA Levies

SMSFs are charged an ATO supervisory levy of $45 each.

Entities that manage many contributors (Master, Corporate and SAF managers) are charged an amount equal to 0.02% of assets, with a maximum of $46,000 and a minimum of $300. The application of this formula results in an unfair and uncompetitive outcome:

- The levy on a Master or Corporate Superannuation Fund manager is levied on a <u>per-managing-entity</u> basis, resulting in a maximum levy of **$46,000** per managing entity.

- However, for individual trustee corporations that manage thousands of separate SAFs, the levy on the trustee manager is on a <u>per fund</u> basis (i.e. per SAF), resulting in a maximum levy per managing entity that is uncapped and in practice may **exceed $1 million!**

We submit that fees should be consistent across entities and reflect the work undertaken by the regulator. The appropriate fees should be:

- $45 per SMSF and SAF for processing returns for each fund
- The APRA levy for SAFs should be calculated by application of the formula to the total value of assets in all SAFs managed by the one entity, and should not be applied per SAF.

The outcome of this would be that:

- SMSFs would pay no more than $45 each.
- Master and Corporate Super managers would pay no more than $46,000.
- SAF managers would pay no more than $46,000 (plus $45 per SAF for return processing. We submit that the processing work for SAF returns would generally be less than for an SMSF, because the SAF returns will have been prepared by an expert trustee manager).

This proposed arrangement is far more equitable, removes the current anti-competitive element to levies, and removes the curious situation whereby a single trustee bears a disproportionate amount of APRA cost.

2.2 Lodgment Date for SAF Returns

- For SMSFs, the ATO undertakes the processing of returns and provides 9 months for the relevant returns to be submitted to it. This is appropriate given the longer times required to collect information from the broad range of investments undertaken.

- For SAFs, APRA currently undertakes the processing but allows only four months for the relevant returns to be submitted. If a return cannot be lodged within four months, a late lodgement fee may be applied.

We strongly believe that the same cut-off times should be applied to each small super fund (i.e. both SMSFs and SAFs).

The Association is of the view that the appropriate time for preparation of returns for both SMSFs and SAFs is nine months and that four months is impossible to achieve. The preparation of returns for SAFs currently requires:

- Collection of distribution and tax information from all investments, including managed funds and sometimes overseas investments
- Preparation of annual accounts for each fund
- Assessment of tax liability for each fund (tantamount to preparing the tax return)
- Auditing of all funds.

Even if the trustee corporations were incredibly efficient, the information required will not all be available within four months and, even if it were, we doubt that any responsible audit firm could audit the thousands of returns within four months. In addition, the processing of data for thousands of SAFs clearly takes considerable time.

Summary of the Association's Concerns

Choice is to be encouraged in an individual's superannuation arrangements. Members of small funds with less than five members should not be discouraged from using a professional trustee organisation by a regime of discriminatory pricing and/or discriminatory return cut-off dates.

Our specific requests for the prudential regulation of SAFs are that:

- APRA abolish the current charge of $300 per SAF (which results in individual trustee corporations making payments exceeding $1 million, when managers of much larger super funds have their fees capped at $46,000) and replace it with a levy calculated by application of the formula to the <u>total value of superannuation assets</u> managed by the one entity, as is the case for other professional Superannuation managers (Corporate and Master Superannuation Funds).

- APRA abolish the current requirement that individual SAF returns be submitted within four months of balance date. Instead, such returns should be required within 9 months of balance date, as is the case for other small Superannuation funds (SMSFs).

- APRA retain the requirement for trustees to submit, within four months, prudential reports about their <u>overall</u> operations as is the case for the other professional superannuation managers.

Thank you for your consideration of these issues. We are happy to discuss them with you further if you wish.

Yours sincerely

M J Shreeve

Michael Shreeve
National Director