

INDUSTRY FUNDS FORUM

Before commenting on particular draft recommendations the IFF wishes to express our strong support for two of the key findings in the Draft Report.

Part of Draft Finding 6.1

“The trust basis of the legislation is effective in facilitating prudent management of superannuation entities.”

The IFF strongly endorses this finding. We do, however, have grave reservations about the second part of this finding concerning the possibility of extending the range of prudentially supervised corporations which can provide superannuation products without a trust structure.

Draft Finding 6.2

“The equal representation rules for trustee boards of standard employer-sponsored funds provide balanced representation of employer and employee interests. They are conducive to active member interest in the prudent management of these funds. This benefit exceeds the cost of finding and appointing members who are capable of undertaking trustee duties.”

The IFF unequivocally endorses this finding.

The IFF’s comments on key draft recommendations are outlined below:

Draft recommendations 4.1 and 4.2

- 4.1 *The net tangible asset requirements for approved trustees should be strengthened through legislative amendment. All approved trustees should be required to have a specified minimum amount of net tangible assets (or approved guarantee or combination thereof) regardless of their custodial arrangement. Approved trustees who use custodians should not be required to have more than the specified minimum amount.*
- 4.2 *The operating capital requirements for approved trustees should be revised, through legislative amendment, so that they represent a specified proportion of an approved trustee’s operating costs.*

Whilst some of these issues were canvassed in submissions to the Commission (sometimes by parties desirous of rebutting a position previously advanced by another party) it is not evident to the IFF how these recommendations fit within the terms of reference of the inquiry. If these issues do not properly fall within the ambit of this inquiry the Industry Funds Forum recommends these draft recommendations be deleted for that reason.

If the Commission is minded to retain the recommendations the IFF would question their practical basis and would question what empirical data exists to support the contentions, including those at page 43 of the report, seeking to justify the recommendations. It is possible that such requirements would have a significant impact on the structure of the superannuation industry with many of the not-for-profit funds having difficulty in meeting the requirements whilst maintaining their current orientation of providing all profits to members. Such an outcome may well be desirable from the viewpoint of other providers of superannuation funds, but no good case has been made as to the advantages this would provide for *members* of superannuation funds.

These recommendations are diametrically opposed to the essence of industry superannuation funds (and other funds such as corporate superannuation funds) which are predicated on all available assets being allocated to members' accounts.

Draft recommendation 5.1

Age and employment requirements governing contributor status and compulsory cashing of benefits should be simplified. In particular, consideration should be given to treating members aged between 65 and 70 in the same manner as those under 65, provided there are not substantial implications for taxation revenue. The monitoring of employment status should be clarified with a view to reducing its frequency; alternatively, responsibility to provide the required information should be placed on members, with appropriate penalties for non-compliance.

The current provisions in this area are complex, inefficient and costly. The IFF believes there is substantial scope to reduce the compliance burden of relevant parts of the SIS legislation including by improving the current provisions relating to the employment test. We support the thrust of the Commission's recommendation.

Recommendation 5.2

Restrictions on access to (or transfer of) superannuation benefits of bona fide non-resident short-term employees should be simplified in order to reduce compliance costs. These benefits should be able to be repatriated if they do not exceed a specified small limit.

The IFF supports the proposal to simplify access and transfer arrangements for non-residents in order to reduce compliance costs and improve the efficiency of this part of the system.

Recommendation 7.1

...The SIS legislation should be amended to require that superannuation entities be licensed by the Australian Prudential Regulation Authority subject to specific conditions pertaining to such matters as trustee capacity, operating capital and the provision of an investment strategy. The Government and the Australian Prudential Regulation Authority should consult widely on the details of such a licensing arrangement.

As with Draft Recommendations 4.1 and 4.2 it is not apparent to the IFF how Draft Recommendation 7.1 legitimately falls within the Terms of Reference of this inquiry. The IFF is not convinced that the introduction of licensing as proposed in the recommendation would provide the suggested benefits for members of superannuation funds. Indeed it is possible that the introduction of licensing (the proposed details of which have not been spelled out at length) could unreasonably restrict competition in the industry. Such an outcome would be counter to the objectives of the Commission, as well as being detrimental to the interests of members of superannuation funds.

Draft recommendation 8.1

The Superannuation (Resolution of Complaints) Act 1993 should be repealed, subject to some transitional arrangements.

All superannuation entities regulated by the Australian Prudential Regulation Authority should be required to join a disputes resolution scheme approved by the Australian Securities and Investments Commission. This should be mandated as part of the compliance requirements of those superannuation entities.

The IFF strongly rejects this recommendation. We believe that the Superannuation Complaints Tribunal has performed a sound role in dealing with disputes in this industry. In particular now that its constitutional status has been clarified we believe that the Tribunal should remain to provide the services to superannuation fund members that were contemplated when the Act establishing the Tribunal was passed in 1993.