

PricewaterhouseCoopers (PwC) response to the draft report on the Productivity Commission review of the Superannuation Industry (Supervision) Act 1993 and certain other superannuation legislation.

PwC would like to provide further details on selected elements of entry requirements applying to the provision of services to superannuation funds, as may assist the Productivity Commission in finalising its recommendations to the Assistant Treasurer.

Four Legislative Options (Overview XVIII to XXIV)

PwC agree with the Productivity Commission's option 1) as recommended.

In respect of option 2), we believe that licensing and capital requirements should be considered as part of a comprehensive review of superannuation, rather than be addressed for approved trustees separately from other superannuation providers.

Draft Findings (Overview XXX and XXXI)

5.1 Lodgement of Annual Returns

Due to the concentration of service providers in the industry the requirement for lodgement of the annual return with audited information within four months of year end is unreasonable and costly. We understand that APRA is planning to collect and analyse unaudited information on a quarterly basis. PwC suggest that APRA accept unaudited information for the June quarter on the same basis as other quarters, with audited information required to be provided within six months. This will not impact on information provided to fund members as funds are currently allowed to provide unaudited information to members. Accordingly, the extension of the time to lodge annual returns will not prevent funds from providing information to members on a timely basis.

At a minimum, we believe that due to the workload involved in respect of SAFs and that SAF members typically have access to all fund information on a timely basis, it is appropriate for the deadline for lodgement for SAFs to be extended to six months after year end.

We note that APRA's view is that a substantial amount of audit work should be undertaken during the year rather than at the end of the financial year which APRA believes would be a good outcome. This is what already occurs for large funds. However, there are a number of key areas which require substantial year end work such as investments and taxation. In respect of small funds, there may be few transactions throughout the year with contributions made close to year end, with little advantage in auditing prior to year end.

6.1 A Trust Focus

PwC accepts the draft finding if it relates to a financial institution regulated by APRA, but has some reservations where a non-APRA regulated body (such as a foreign investment house operating through a local branch) is involved.

6.2 Trustee Representation

PwC agrees with the draft finding.

6.3 Policy Committees

PwC agrees with the draft finding on the basis that policy committees may serve a useful purpose in certain circumstances. With the ongoing rationalization in the number of corporate funds, it will become increasingly important for policy committees to represent members interests.

6.4 Application of the Criminal Code and Strict Liability to Offences

PwC supports the need for APRA guidelines and APRA's ability to issue notices seeking corrective behaviour, provided that a reasonable amount of time to respond is granted.

6.5 Sole Purpose Test

PwC accepts the Productivity Commission's draft finding, based on our understanding that funds will continue to offer members "generic" financial options in their retirement which may be paid for by the fund. "Tailored" financial options should be paid for by members individually. With the introduction of the Financial Services Reform Act this issue becomes increasingly complex.

6.6 Successor Fund Transfers

PwC agrees with the draft finding. In relation to the question of whether the provisions can be abused by employers it may be appropriate to require trustees to obtain legal advice from a party independent of the employer's legal adviser. Alternatively, trustees should be required to demonstrate due process in using successor fund transfers.

6.7 Division of Responsibilities

PwC agrees with the draft finding.

8.1 Internal Dispute Arrangements

PwC agrees with the draft finding and suggests that it is best done as part of the internal dispute process.

9.1 Funding Supervision of Self-managed Superannuation Funds

PwC agrees and believes that the ATO should be required to keep its supervisory costs to the minimum necessary.

Detailed Recommendations (Overview XXIV and XXV)

4.1 and 4.2 Capital Requirements

PwC refers the Productivity Commission to Minister Hockey's recent statements, which indicate a reasonably substantial review of licensing and capital requirements.

PwC believes that consideration of these matters should not be restricted to approved trustees but be considered as part of an overall review of licensing and capital requirements.

These considerations should include:

- Trust Law and SIS requirements on Trustees to act prudently
- Insurance arrangements
- Risk management procedures
- Service providers used and the contractual arrangements with those providers
- Economies of scale.

4.3 Approved Financial Auditor

PwC is not certain that there would be added benefits when duplication of efforts and added costs are taken into account. Also, APRA may be unwilling to increase the number of persons to which it will hold accountable under relevant legislation for actions committed or omitted.

4.4 Specified Actuarial Tasks

PwC believes that changes would be immaterial and would potentially open up the process to new risks (e.g. old accumulation plans).

5.1 Age and Employment Requirements

PwC agrees with the Productivity Commission's recommendation.

5.2 Restrictions on Access to Super. Benefits

PwC agrees that restrictions on access to benefits of bona fide non-residents should be simplified in order to reduce compliance costs. However, we believe that a specified limit should only apply where the benefits are not being repatriated to a complying fund and that no limit should exist where the benefits are being paid into a complying fund.

5.3 Risk Management Statements

PwC agrees with the draft recommendation.

5.4 Actuarial Statements

PwC agrees with the draft recommendation.

7.1 APRA Licensing of Super. Entities

PwC agrees that the SIS legislation should be amended to simplify certain complex requirements which impose significant compliance costs.

PwC believes that the Government and APRA should consult widely on licensing arrangements before determining whether licensing is appropriate for all superannuation entities and where licensing is appropriate what form such licensing would take.