

BETTER REGULATION AND GOVERNANCE, ENHANCED TRANSPARENCY AND IMPROVED COMPETITION IN SUPERANNUATION

Transparency of Funds

Submission No. 1

Terms of Reference

- The best way to improve transparency and competition in the employee default superannuation funds market.

Introduction

The Trustees of Government Regulated Superannuation Funds have direct control of large amounts of *“other people’s money”*.

One of the *“irreducible core obligations”* of any Trustee is to account to the beneficiaries for the Trustee’s stewardship of the trust (fund).

There are expenses that must be paid for the proper administration of a trust such as fees paid to:

- Accountants
- The Fund Auditor
- The Fund Actuary
- Legal Advisors
- Investment Advisors
- Fund Administrator (if outsourced)
- APRA fees
- Salary and Wages if a professional Trustee is employed

It will be generally be at the Trustee’s total discretion as to whom the Trustee engages to provide these services.

The Payment of General Administration Expenses

There are two methods a Trustee can lawfully use to pay for these expenses:

- (i) Reimbursement, and
- (ii) Exoneration

If a Trustee uses “*reimbursement*” the Trustee initially pays for all expenses out of the Trustee’s own pocket and then gets reimbursed from the trust fund.

If the Trustee uses “*exoneration*” all expenses are directly paid out of the trust fund.

Now the difference is that the second method “*exoneration*” is much more transparent to the Member of the fund since the audited accounts should show a line item for each category of expense paid for professional services rendered.

If a Trustee does not publish the audited accounts on the funds website, the Trustee must provide a copy of the audited accounts of the Fund “*free-of-charge*” to any Member or Beneficiary of the Fund who requests a copy.

Someone considering joining the Fund can also request a copy of the audited accounts however the Trustee can charge a “*cost recovery fee*” to provide a copy of the audited accounts

If the Trustee uses the “*reimbursement*” method then all that will be shown in the audited accounts of the Fund is a single line item “*Trustee Service Fee*”.

There is no transparency to the Members as to how the “*Trustee Service Fee*” is actually spent.

As fiduciaries, Trustees are not allowed to make a profit from their position of Office.

The audited accounts should clearly identify how much was paid to each professional service provider and who that professional service provider was.

Furthermore these amounts should be provided to **APRA** who should then publish the range of amounts paid relative to the Funds under management so that members can determine if excessive amounts are being paid to a particular service provider who may be a “*mate*” of one of the Trustees.

Statements such as:

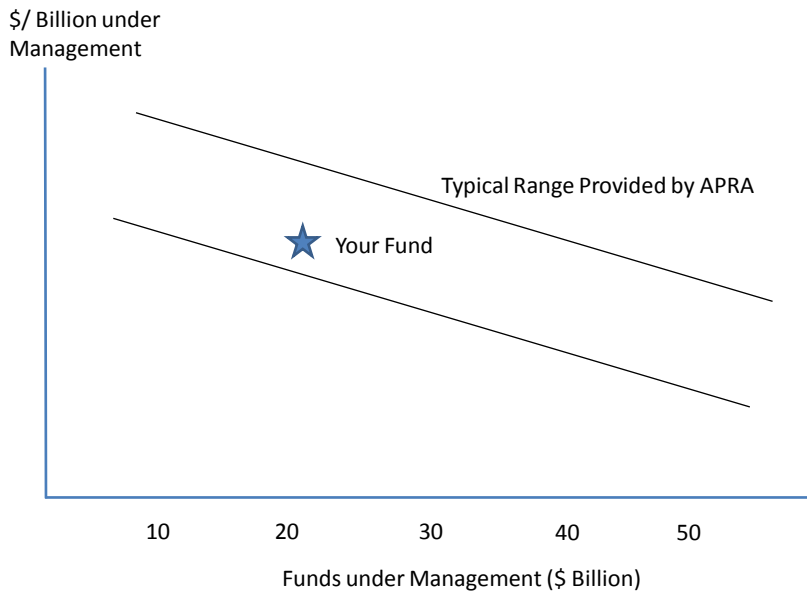
All transactions were made on normal commercial terms, under normal conditions and at market rates.

Are complete nonsense since how does the Fund Auditor know what are “*normal commercial terms*” and “*market rates*” if there is no collation of statistics by **APRA**?

The Annual Report to members should include comparison graphs for each service provider category as shown in the following diagram.

One would expect there to be economies of scale with funds that have larger amounts of funds under management

Audit Fee Comparison



The *AustralianSuper* Case Study

The Trustee of *AustralianSuper* is partly owned by the ACTU.

The Financial Statements that appear in the Annual Report to Members are very basic and disclose that \$214 Million was paid in “*Administration and Operating Expenses*”.

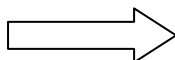
The Treasury Inquiry

FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2013

Below is a summary of AustralianSuper's financial statements for the last two financial years. The financial statements for 2013 are taken from **unaudited** accounts.

Summary of AustralianSuper's financial statements for the last two financial years.		
	2013 \$'000	2012 \$'000
Opening Balance	46,886,804	43,018,415
Employer contributions	4,981,621	4,480,744
Member contributions	693,733	479,252
Transfers inwards	11,090,101	3,044,962
Investment income	7,936,665	386,161
Insurance receipts	200,038	151,919
Other income	9,466	14,302
Total income	24,911,624	8,557,340
Benefits paid and payable	5,120,288	3,791,000
Administration & operating expenses	214,176	172,182
Insurance expense	345,949	302,053
Income tax expense	1,248,681	423,716
Total benefits and expenses	6,929,094	4,688,951
Net assets available to pay benefits at year end	64,869,334	46,886,804
Members' funds	64,700,528	46,712,904
Reserves	168,806	173,900
Liability for accrued benefits	64,869,334	46,886,804



Reserves for the 3 years to 30 June 2013			
	2013 \$'000	2012 \$'000	2011 \$'000
Reserves	168,806	173,900	139,614

More information about the AustralianSuper's reserves

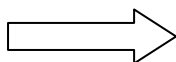
The level of the reserves is determined by the Board annually based on an assessment of the risks faced by AustralianSuper and with regard to industry best practice. Our policy sets out how the level of the reserves is maintained and replenished through both investment earnings and operational surplus. It also outlines under what circumstances payments are made from the reserves. Included in the reserves is an amount set aside as an Operational Risk Reserve of \$160 million (\$140 million in 2012). The purpose of the Operational Risk Reserve is to provide funding for incidents where material losses may arise from operational risks (as opposed to investment risks).

The audited accounts disclose not much more information. A sum of \$206 million was transferred from the Members' trust fund to the Trustee. Another amount of \$232.8 million is shown in the notes to the accounts.

The Treasury Inquiry

AustralianSuper
Operating statement
For the year ended 30 June 2013

	Notes	2013 \$'000	2012 \$'000
Net revenue - investments			
Dividends and distributions		1,522,358	1,311,909
Interest		581,568	420,594
Other investment income		16,112	14,829
Changes in net market value of investments	6	6,017,819	(1,236,403)
Master custodian and investment manager fees		(175,358)	(106,195)
Direct investment expenses		(25,834)	(18,573)
Total net revenue - investments		7,936,665	386,161
Revenue - contributions			
Employer		4,981,621	4,480,744
Member		693,733	479,252
Transfers from other superannuation funds - accumulation	14	8,352,137	2,185,624
Transfers from other superannuation funds - pension	14	2,737,964	859,338
Total revenue - contributions		16,765,455	8,004,958
Revenue - other			
Insurance claims receipts		200,038	151,919
Sundry income		9,035	13,892
Interest on cash at bank		431	410
Total revenue - other		209,504	166,221
Total revenue from ordinary activities		24,911,624	8,557,340
Insurance expense		(345,949)	(302,053)
General administration expenses			
Trustee services fee	11(a)	(206,635)	(165,073)
Other expenses		(7,524)	(7,082)
Superannuation contributions surcharge		(17)	(27)
Total expenses from ordinary activities		(560,125)	(474,235)
Benefits accrued as a result of operations before income tax		24,351,499	8,083,105
Less income tax expense	7	(1,248,681)	(423,716)
Benefits accrued as a result of operations after income tax		23,102,818	7,659,389



The above operating statement should be read in conjunction with the accompanying notes.

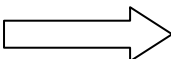
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11 Related parties

(a) Transactions with Trustee

The Trustee is owned by the Australian Industry Group and ACTU Super Shareholding Pty Ltd. ACTU Super Shareholding Pty Ltd holds the shares on behalf of the Australian Council of Trade Unions.

Under the terms of the Trust Deed, the Trustee is entitled to receive trustee services fees, calculated by reference to the costs incurred by the Trustee in running the Fund.



	2013	2012
Trustee services fee paid and payable by the Fund to the Trustee *	\$232,842,000*	\$187,245,000*
Amount payable by the Fund to the Trustee at the end of the reporting period	\$4,534,000	\$4,521,000
Prepayment with the Trustee	\$5,447,000	\$6,358,000

* The portion of the trustee services fee that relates to investment activities is recognised in the direct investment expenses on the operating statement.

The Trustee paid the Australian Industry Group \$216,000 (2012: \$99,000) and the Australian Council of Trade Unions \$207,000 (2012: \$156,000) for advertising related opportunities and general marketing for AustralianSuper.

All transactions were made on normal commercial terms, under normal conditions and at market rates.

The accounts show a 24% increase in the Trustee Service Fee in one year. Why such a substantial increase? 2013 was an election year. Did some of the increase in fees paid to a Trustee owned by the ACTU find its way to pay for the Labor election campaign?

If the \$232 million was fully itemised in the audited accounts available to members there would be no need to speculate on whether the \$232 million was spent on expenses "*properly incurred*" on the administration of the fund or on other "*expenses*" that were not "*properly incurred*".

Retail Funds

AustralianSuper is an "*Industry Fund*" and not a "*Retail Fund*". Industry Funds claim that they do not "*charge fees*", however "*fees*" can be hidden by bundling "*secret fees*" into "*general administration expenses*" that are not properly disclosed to Members.

Retail Funds should be required to disclose the ratio of fees charged to expenses paid.

Again *APRA* should collate this data for *Retail Funds* so that at typical ratio is available to Members and the *Fund Ratio to Average Retail Fund Ratio* is published in the Annual Report to Members.

Recommendations

Recommendation #1

The *Superannuation Industry (Supervision) Act 1993* be amended so that the Trustees of Government Regulated Superannuation Fund have to pay for expenses incurred in the administration of those funds by way of “*exoneration*” and not by way of “*reimbursement*”.

Recommendation #2

The *Superannuation Industry (Supervision) Regulations 1994* be amended so that the Audited Accounts have to disclose a line item for each category of professional service provider and for the identity of each of the service providers to be identified in the notes to the accounts.

Recommendation #3

The *Superannuation Industry (Supervision) Regulations 1994* be amended so that Trustees have to provide *APRA* with expense amounts paid to each category of professional service provider as well as funds under management so that *APRA* can publish comparable statistics on what members should expect to be reasonable amounts paid to professional service providers given the size of the fund.

Recommendation #4

The *Superannuation Industry (Supervision) Regulations 1994* be amended so that Trustees have to provide comparison graphs in the Annual Reports to members as to fees paid to each service provider and how these compare to typical amount paid with respect to the size of the fund.

Recommendation #5

The *Superannuation Industry (Supervision) Regulations 1994* be amended so that Trustees have to call for tenders for the provision of professional services at least every three years so that professional services are actually provided at genuine market rates and not on a “*mate’s deal*” basis. In the case of “*independent*” Fund Auditors there should be a requirement for the rotation of Audit Firms every six years, irrespective of whether the incumbent service provider is the lowest bidder.

This would bring the Governance of Superannuation Funds into line with the Governance of listed Public Companies.

There should also be a requirement that audit partners are rotated every three years if the incumbent Audit Firm is the lowest bidder after the first three years.

Recommendation #6

The *Superannuation Industry (Supervision) Regulations 1994* be amended so that Trustees of “*Retail Funds*” have to include in their Annual Report to Members the ratio of fees charged to Members vs actual “*general administration expenses*” and how this compares to the average for all “*Retail Funds*”.

Submission Lodgement

This submission to *The Treasury* has been lodged in the *Public Interest* by Phillip Charles Sweeney.
