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11 February 2014

Manager
Superannuation Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

via email: superannuationconsultation@treasury.gov.au

Dear Sir/Madam,

**Submission response to the Federal Government's discussion paper
"Better regulation and governance, enhanced transparency and improved
competition in superannuation"**

legalsuper is the \$2.2 billion industry super fund for 40% of people working in Australia's legal profession.

legalsuper supports the objectives of the Federal Government's discussion paper to achieve better regulation and governance, enhanced transparency and improved competition in superannuation.

The Australian superannuation system is highly regarded across the globe, however ongoing review and change will be necessary over time.

Please note that we have chosen to respond to one of the four key areas of the review as outlined in the discussion paper in broad terms, rather than responding to all of the focus questions provided.

The super fund for Australia's legal profession

Response to Part 4: Enhancing competition in the default superannuation market

Measures are required to ensure an employer's choice of default fund is not influenced by commercial considerations.

Employers are required to have a 'default fund' to which they pay their employees' superannuation guarantee contributions if the employee has not advised their own choice of super fund.

An employer's default fund must be a complying fund and offer a minimum level of life insurance (some exceptions do apply).

Where an employer conducts business with an entity or an associated entity that is also that employer's default fund, there is potential for commercial considerations to influence that employer's choice of default fund.

Some examples of the circumstances where commercial considerations influence an employer's choice of default fund include:

- a) an employer is seeking finance for their business and is offered concessional interest rates by a financial institution on the proviso that the employer nominates a superannuation fund offered by that financial institution or an associated entity as the employer's default fund; and
- b) an employer is remunerated for services or advice provided to a financial institution or an associated entity that looks favourably on the employer choosing a superannuation fund offered by that financial institution or an associated entity.

In our experience, employers within and outside the legal profession are influenced by commercial considerations when they choose their default fund. In some instances, the chosen default fund has weak investment performance or inferior insurance benefits, which result in sub-optimal outcomes for members.

There is scope for greater transparency for members as to the existence or impact of any commercial considerations on an employer's choice of default fund. In the context of a "master/servant" relationship, employees can feel uncomfortable about questioning their employer's decision.

We believe that an employer's choice of default fund should be determined *solely* with reference to members' best interests. The commercial considerations of an employer's business have no place in the choice of default fund.

To protect employees from the potential for commercial considerations to influence an employer's choice of default fund, we recommend that consideration be given to restricting an employer's ability to choose a default fund provided by an organisation with which they conduct business. A total prohibition may be appropriate in some circumstances. This will improve transparency and provide a more level playing field in the superannuation market.

About legalsuper

As the industry super fund for Australia's legal profession, relative to other occupational groups, our members are white collar, higher earning, with higher levels of financial literacy and are more engaged.

This is evidenced by legalsuper's average account balance across all members being more than 34% higher than the industry average for all super funds other than self-managed super funds.

Another key indicator is that, among legalsuper members, 50% of legalsuper's assets are invested outside its default investment option, as members have actively chosen their investment option. That level of investment outside the default investment option is five times the industry average.

Conclusion

We trust our submission will assist the Federal Government with consideration of the issues raised in its Discussion Paper and would welcome the opportunity to expand on any element of our submission.

Yours faithfully

A handwritten signature in black ink, appearing to read 'David A. Miles', with a large, stylized flourish underneath.

David A. Miles AM
Chairman, Legal Super Pty Ltd