Together towards tomorrow

12 June 2018

The Treasury
Langton Crescent
PARKES ACT 2600

Rest response – *Treasury Laws Amendment (Protecting Superannuation) Bill 2018*

Dear Sir or Madam,

Rest welcomes the opportunity to provide a response to the *Treasury Laws Amendment (Protecting Superannuation) Bill 2018*.

As a leading profit-to-member superannuation fund with almost 2 million members and over $50 billion in funds under management, Rest is committed to working with Government and industry to help improve the retirement outcomes of Australians.

Throughout Rest's history insurance has been of critical importance to us. Every day we see the benefits of providing default Death, Total and Permanent Disablement (TPD) and Income Protection (IP) cover to 1.4 million members as part of their superannuation.

The majority of Rest members are women and many work in part-time, casual or temporary employment. In the absence of insurance cover provided by Rest many of our members would be unable to access equivalent cover and for those who could the cost would be much greater.

Rest members comprise around one in six working Australians for whom retirement is many years into their future. The average superannuation account balance of a contributing Rest member is around $29,000 with 623,500 (32 per cent) of Rest members under 25 years of age.

We welcome the opportunity to make this submission as this important legislation is developed. Please do not hesitate to contact me directly on (02) 9086 6386 or via email on edward.salloum@rest.com.au should you require any further input from Rest about this submission.

Yours sincerely,

Edward Salloum
Head of Product
Rest

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1. Key recommendations

Recommendation 1:	Limit the three per cent fee cap to default investment options, as choice of investments constitutes a positive action performed by members who will be aware of associated fees and costs of investing.
Recommendation 2:	Change the methodology for calculating the fee cap to exclude investment fees. The Investment Fee is the cost of earning an investment return. Generally, the returns generated for the member will be much higher than the cost.
Recommendation 3:	Superannuation funds are able to immediately charge fees consistent with other members with balances over $6,000 once a member's account exceeds $6,000 within the six-month balance audit period.
Recommendation 4:	Superannuation funds should be permitted to charge a withdrawal fee (on a cost recovery basis) following the member's initial (full or partial) withdrawal.
Recommendation 5:	Allow consumers to choose not to be automatically rolled over to the Australian Taxation Office.
Recommendation 6:	Allow superannuation funds with justification to maintain insurance for younger members and those with low account balances based on their ability to seek insurance cover through other means.
Recommendation 7:	Allow superannuation funds to stipulate their age limit for young members, i.e. 18, 21, 25, based on their reliance on their income and stage of life.
Recommendation 8:	Allow funds to proceed with the legislation changes in a future looking provision, on the basis it will be able to factor in the requirements of *the Insurance Contracts Act 1995* and *Life Insurance Act 1995*.
Recommendation 9:	Allow superannuation funds to adopt the 13-month cover cessation rule, as stipulated in the *Insurance in Superannuation Working Group Voluntary Code of Practice*.
Recommendation 10:	Enable superannuation funds to access data currently held by the Australian Taxation Office in order to identify members with insurance held in other funds.
Recommendation 11:	Clarify the validity of member elections of insurance when transferring insurance between funds
Recommendation 12:	Allow for a 2-year transition period once the legislation has passed.

2. Response to the Treasury Laws Amendment (Protecting Superannuation) Bill 2018

Rest welcomes the opportunity to provide a response to the Government's Protecting Your Super Package announced in the 2018-19 Federal Budget. This submission provides recommendations and feedback on proposals relating to:

- A cap on administration and investment fees charged on superannuation accounts with balances of $6,000 or less at three per cent of the account balance, in addition to banning superannuation funds from charging exit fees for any account.

- A requirement on superannuation funds to only offer insurance on an opt-in basis in relation to accounts:
  - that have balances below $6,000;
  - of new members who are under 25 years old; or
  - that have not received a contribution for 13 months or longer.

- Changes to strengthen the Australian Taxation Office (ATO) led consolidation regime by requiring the transfer of all inactive accounts where the balances are below $6,000 to the ATO. The ATO will be given powers to reunite ATO held accounts with the member's account where possible.

3. Fees charged to superannuation members

3.1. Three per cent (3%) fee cap on account balances below $6,000

Key points

- The three per cent fee cap should only apply to default investment options and not where investment choice has been positively exercised by members that would be fully conversant or advised of the associated fees and costs of investing.

- Investment fees should be excluded from the three per cent fee cap as it is the cost of earning the investment return. For example, Rest's default investment option (Core Strategy) charges an annual investment fee of 0.76 per cent and has delivered a 10-year rolling net return of 7.04 per cent per annum.

- Clarification is sought on whether the three per cent fee cap will apply to pension products.

- Applying a fee cap for the following six months based on a balance at a certain balance date does not take into account instances where a member may rollover monies or make substantial contributions (exceeding the $6,000 threshold) following the balance audit period. This could be susceptible to gaming.

- The introduction of a fee cap for low account balances is inconsistent with the aims of MySuper especially around the charging rules and access to equivalent benefits, features and options. There is a real risk of cross-subsidisation resulting from the fee cap.

- The estimated costs associated with the transition, administration system costs, change management, extensive member communications and operational impacts will be in the millions. This will be borne by the fund's membership.

Recommendation 1: Limit the three per cent fee cap to default investment options, as choice of investments constitutes a positive action performed by members.

Recommendation 2: Change the methodology for calculating the fee cap to exclude investment fees. The Investment Fee is the cost of earning an investment return. Generally, the returns generated for the member will be much higher than the cost.

Recommendation 3: Superannuation funds are able to immediately charge fees consistent with other members with balances over $6,000 once a member's account exceeds $6,000 and not wait until the next balance audit period.

3.2. Withdrawals fees

Key points

- Rest supports moves that make it easier for members to consolidate their superannuation accounts. This is no better represented than Rest's removal of any sell spreads for members switching or exiting and no withdrawal fee charged on the first withdrawal.
- Rest is of the opinion that a withdrawal fee should be charged for subsequent withdrawals (following the initial withdrawal) on a cost-recovery basis in line with the MySuper rules. This will ensure that fund members, as a whole, are not disadvantaged by the activities/strategies of individual members.

Recommendation 4: Superannuation funds should be permitted to charge a withdrawal fee (on a cost-recovery basis) following the member's initial (full or partial) withdrawal.

4. Inactive low-balance accounts and consolidation into active accounts

Key points

- Rest believes that consumers should be able to opt-out of the automatic roll-over of inactive low account balances to the ATO.
- Insurance-only arrangements could be inadvertently captured by the inactive low-balance rules. Certain members maintain their super accounts (not their primary investment account) to take advantage of attractive insurance arrangements (favourable pricing and terms) offered by a fund and occasionally top-up their account to meet their fees and premium payments.

Recommendation 5: Allow consumers to choose not to be automatically rolled over to the Australian Taxation Office.

5. Insurance for superannuation members

5.1. Summary of feedback on insurance in super

- Group insurance provided on an opt-in basis would require underwriting and lead to less certainty on the number of members receiving insurance cover.
- Insurance would inevitably be more expensive and less accessible for many working Australians, particularly those with pre-existing health conditions.
- The burden would fall to Government to provide services for those members who suffered a disability and did not receive any insurance, resulting in a significant cost to the public health system.
- Members who have made a choice to have insurance are also automatically excluded from cover.
- Rest asks the government to consider excluding members who have applied for cover and gone through an application process to actively select, choose or apply for cover (including underwriting).

5.2. Insurance for younger members and those with lower account balances

Key points

- Rest believes that proposals to remove life insurance for those aged under 25 may have unintended consequences for younger working Australians with superannuation. Particularly the $6,000 account-balance rule and age 25 opt-in proposals.
- A 'carte-blanche' approach to cancelling cover for members under 25 and for those with an account balance of under $6,000 is not in members' bests interests.
- Unlike young people who may be living at home or attending university and only working intermittently, Rest members rely on their income. Their insurance is valuable to them and their dependants. For many their ability to earn a living is their most important asset, and Rest's insurance is created with this in mind.
- By providing insurance on an opt-out basis, Rest is helping to ensure more Australians receive valuable financial support in times of need. Without the affordable and flexible insurance provided by Rest many members would be unable to access equivalent cover due to working part time or on a casual basis.
- Moving to opt in would also preclude those who have pre-existing conditions from accessing affordable cover. Due to pre-existing health exclusions or loadings found on retail and direct policies.
- Rest members access insurance without paying any commissions to brokers, third-party sales channels or intermediary agents.
- Rest's insurance offering provides our members aged 18 with a small amount of death cover, which is when they are starting to accumulate personal debt such as credit cards or car loans. This is complimented by Income Protection which protects their most valuable asset. It gives them protection through to their 60th birthday if they lose

the ability to work either temporary due to an injury or a illness such as cancer. It also protects them from something more serve such as paraplegia. Default cover with Rest costs them $1.11 a week.

- Our design then increase with cover when our members reach additional milestones such as buying a house of having children. We know that many Rest members many have children before the age of 25. At 25, members receive $101,200 in death cover, $28,600 in TPD and $2,550 a month in income protection through to their 60th birthday, this cover costs $4.85 a week.

- Rest pays a significant amount in claims to the members impacted by this legislation. As highlighted in **Appendix 1 and 2,** we have paid over $50 million to members under the age of 25 who have passed way leaving dependent partners and children behind or have suffered a disability that has mean they have been unable to go back to work. We the past two years $213 million has been paid to members with an account balance of less than $6,000. We have also paid $203 million in claims to those who have not contributed to their account in the past 13 months.

- As detailed in **Appendix 3**, research by AIA reveals that almost one in two of those with insurance in superannuation would not be covered if it was not provided automatically.

- The burden will fall on Government to provide financial support and services for those members who suffered a disability and did not receive any insurance.

Recommendation 6: Allow superannuation funds with justification to maintain insurance for younger members and those with low account balances based on their ability to seek insurance cover through other means.

Recommendation 7: Allow superannuation funds to stipulate their age limit for young members, i.e. 18, 21, 25, based on their reliance on their income and stage of life.

5.3. Protecting those who rely on their existing cover

Key points

- The proposed legislation introduces a new rule that is not in our product disclosure statement, or our contract of insurance with members or our insurer.

- Members who have chosen to have insurance will be automatically excluded from cover.

- Rest asks the Government to consider excluding members who have applied for cover and gone through an application process to actively select, choose or apply for cover (including underwriting).

- In Rest's view, the proposed legislation is inconsistent with requirements under the *Superannuation Industry (Supervision) Act 1993* (SIS Act) to act in the best interest of our members. Specifically, the contract of insurance we have issued to members as well as the terms of when we will and won't cancel their insurance. It's also potentially inconsistent the *Insurance Contracts Act 1984* - Section 63 (Appendix 1) and *Life Insurance Act* 1995 Section 210 (Appendix 1), which stipulates when cover can and can't be cancelled.

Recommendation 8: Allow funds to proceed with the legislation changes in a future looking provision, on the basis it will be able to factor in the requirements of *the Insurance Contracts Act 1995* and *Life Insurance Act 1995*.

Recommendation 9: Allow superannuation funds to adopt the 13-month cover cessation rule, as stipulated in the *Insurance in Superannuation Working Group Voluntary Code of Practice*.

5.4. Establishing a central insurance registry to stop duplicate insurance accounts

Key points

- Rest's admin processes are designed to only give our members one insurance policy, regardless of the number of employers they have with us.
- We also advise our members on the impact of having multiple policies.
- We support Treasury's views on heightening awareness of insurance in superannuation to ensure it is not unnecessarily eroding account balances.
- Rest is focused on raising awareness of the value of insurance in providing financial support to our members and their families in times of need.
- Rest has separated insurance communications from superannuation communications including a separate insurance welcome for new members when they join Rest Super. We have also written to every insured member within the fund to remind them they have insurance.
- The lack of a central insurance registry currently hampers the industry's ability to properly monitor policy duplication across funds and to undertake steps to resolve issues where multiple policies do not lead to more insurance coverage, or alternatively result in over insurance.

Recommendation 10: Enable superannuation funds to access data currently held by the Australian Taxation Office in order to identify members with insurance held in other funds.

5.5. Transferring cover - clarification required

Key points

- The proposed legislation is unclear on the application of insurance cover when a member transfers cover between funds.
- When a member makes an election to their initial fund to maintain their insurance cover, is this election still valid if the member transfers their insurance to another fund?

Recommendation 11: Clarify the validity of member elections of insurance when transferring insurance between funds.

6. Transition timeframe

Key points

- These budgetary changes will take considerable time to implement and involve administration and supporting system work, operational change management and extensive member and employer communications.
- Creating a new insurance policy that is in the best interests of members takes time to create and price.
- Rushing the pricing of a contract will lead to additional loadings due to lack of time to properly analyse claims experience.
- The proposed transition arrangements are insufficient to price and create a new policy supported by an appropriate administration system.
- With all funds required to reprice within the same timeframe, there will not be sufficient capacity in the industry.
- Rest's current redesign program is due for completion on 1 December 2019.

Recommendation 12: Allow for a 2-year transition window once the legislation has passed.

Appendix 1 – claims paid to members who would have their insurance removed by the legislation

Claims paid by Rest in the last two years to members who would be impacted by these proposals

The tables below show the amount of valuable protection that will be extinguished if the legislation is passed in its current form. There is unlikely to be an alternative source of financial support for members or the dependants of members no longer able to receive insurance cover from Rest.

Member under the age of 25	
Death	$36.5m
IP	$9.2m
TPD	$5.0m
TOTAL	**$50.7m**

Member with an account balance of less than $6,000	
Death	$126.6m
IP	$59.4m
TPD	$27.5m
TOTAL	**$213.5m**

Member without a contribution in the past 13 months	
Death	$161.5m
IP	$23.2m
TPD	$18.5m
TOTAL	**$203.2m**

Appendix 2 – Claims case studies for members under the age of 25

Rest is one of the few super funds providing flexible long-term IP cover as well as Death and TPD insurance by default – ensuring our members and their dependents are protected following the unexpected. Rest believes there are significant benefits in an opt-out approach to insurance, ensuring that, in the event the unexpected, members and their loved ones receive the financial help they need.

Rest works actively with AIA Australia to maximise the number of members receiving insurance cover. We also review all claims and decisions made by our insurer AIA and seek always to advocate on behalf of our members.

The value of income protection at any age

Jane* is a 21-year-old retail worker who, at age 19, commenced an Income Protection claim with Rest due to back and muscular pain. Jane's salary has been covered due to her inability to work, and she has also received more than $23,000 in support from Rest.

Sandra* is a retail worker who had an accident at the age of 25 affecting her ankles and legs. Sandra has been receiving monthly benefits from Rest for more than four years. So far, she has received more than $138,000 in financial support as she is unable to return to work.

Supporting members through mental illness

Sam* is a retail worker who was diagnosed with a serious mental health condition at the age of 20. While he was off work, Rest provided him with more than $38,000 through his income protection policy. Sam has now successfully returned to work.

Ongoing support for permanent disabilities

Sarah* suffered a vertebrae injury at the age of 25. Unfortunately, Sarah's injury is so significant she is not able to return to work. As she is classified as totally and permanently disabled, she received a lump sum payment of $68,500 from Rest. She is also receiving an ongoing monthly payment of $2,000 to replace her lost income.

Advance payments through terminal illness benefits

Tania* was a retail worker who lost her battle with cancer two months after her 25th birthday. Before her death, she received an advance payment of her death benefit. The remainder was left to her daughter to fund her ongoing needs.

Financial support for loved ones

Steve* tragically died from unknown causes at the age of 22. Through his insurance with Rest, Steve's daughter has received $203,000 in financial support for her future.

Emily* sadly ended her life at the age of 24. Emily is survived by her young son. Her insurance with Rest has meant that a minor trust of more than $185,000 could be set up to provide him with ongoing financial support.

** These names were changed to protect the members' privacy.*

Appendix 3 – AIA Research

Research of the general Australian population conducted by AIA Australia in July 2016 revealed that almost one in two of those with insurance in superannuation believe they would not be covered if it was not provided automatically, leading to a potential underinsurance gap of almost $2.2 billion[1].

Research of the general Australian population conducted by Rice Warner in July 2015 also highlights the underinsurance gap facing many Australians. The research concluded that the median level of life cover meets only 61 per cent of basic needs and that median life cover is only 37 per cent of the income replacement level required. Alarmingly, the median level of TPD cover and IP cover meets only 13 per cent and 16 per cent of their respective needs[2].

Research by Rice Warner in June 2015[3] on the state of Australia's life insurance underinsurance gap found that while required life insurance is now about $860,000 for a young family, typical default cover as part of superannuation is only approximately $200,000, around 30 per cent of their need. Rice Warner estimated the total cost to Government to be $57 million per year, while TPD underinsurance is calculated to be $1,258 million per year. Underinsurance for IP is estimated to cost the Government $260 million per year.

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1 Insurance consumer Research, AIA Australia July 2016

2 *Underinsurance in Australia 2015*, Rice Warner July 2015

3 'Australia's persistent life insurance gap', Rice Warner 24 June 2015

Appendix 4 – Associated legislation

INSURANCE CONTRACTS ACT 1984 - SECT 63

Cancellations of contracts of insurance void

(1) Except as provided by this Act, an insurer must not cancel a contract of general insurance.

(2) Except as provided by this Act or section 210 of the *Life Insurance Act 1995* , an insurer must not cancel a contract of life insurance.

Note: Section 210 of the *Life Insurance Act 1995* deals with cancellation of a contract of life insurance because of non-payment of a premium.

(3) Any purported cancellation of a contract of insurance in contravention of subsection (1) or (2) is of no effect.

And

LIFE INSURANCE ACT 1995 - SECT 210

Non-forfeiture of policies in certain cases of non-payment of premiums

(1) A policy is not liable to be forfeited only because of the non-payment of a premium (the ***overdue premium***) if:

(a) at least 3 years' premiums have been paid on the policy; and

(b) the surrender value of the policy exceeds the total of:

(i) the amount of the overdue premium; and

(ii) the total of any other amounts owed to the company under, or secured by, the policy.

(2) For the purposes of paragraph (1)(b), the surrender value of the policy is to be worked out as at the day immediately before the day on which the overdue premium falls due.

(3) Until the overdue premium is paid, the company may charge interest on it on terms not less favourable to the policy owner than such terms (if any) as are prescribed by the regulations.

(4) The overdue premium and any unpaid interest charged on it are taken, for the purposes of this Act, to be a debt owing to the company under the policy.

(5) A life company may only forfeit a policy because of the non-payment of a premium if:

(a) the company has given the policy owner a written notice:

(i) setting out the amount of the premium and the day on which it became, or will become, due; and

(ii) stating that the policy will be forfeited at the end of 28 days after the giving of the notice or 28 days after the day on which the premium became, or will become, due, whichever is the later if the amount due to the company has not been paid; and

(b) at least 28 days have elapsed since:

(i) the day on which the notice was given; or

(ii) the day on which the premium became due;

whichever is the later.