

CORPORATE SUPERANNUATION ASSOCIATION Inc.

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The Manager
Insurance and Financial Services Unit
The Treasury
Langton Crescent
PARKES ACT 2600

Delivery via email to claimshandling@treasury.gov.au

Dear Sir/Madam

CORPORATE SUPERANNUATION ASSOCIATION SUBMISSION INSURANCE CLAIMS HANDLING

We refer to Treasury's Consultation Paper, *Insurance Claims Handling*, issued for public comment on 1 March 2019 (the *Paper*).

The Corporate Superannuation Association provides comments below.

The Corporate Superannuation Association

Established in 1997, the Association is the representative body for large corporate not-for-profit superannuation funds and their employer-sponsors.

The Association now represents a total of 18 funds controlling \$51 billion in member funds, held in a total of some 274,000 individual accounts. Of these funds, 10 have outsourced trustee services but maintain significant employer interest through policy committees.

In general, these funds are sponsored by corporate employers, with membership restricted to employees from the same holding company group, but we also include in our membership three multi-employer funds with similar employer involvement and focus. A number of our funds have defined benefit divisions. Some of the smaller funds have their place in the pension fund structures of international groups, hence play an important role in the care and welfare of the worldwide workforces of these groups.

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Concerns about Claims Processes

We recognise that the recent Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry raised issues about claims handling by insurers, and recommended the inclusion of claims handling and settlement within the definition of “financial service”. The removal or modification of Corporations Regulation 7.1.33 is proposed to achieve this.

Our Association welcomes initiatives aimed to improve governance mechanisms and to achieve better outcomes for fund members. We are cautious, however, about proposals which will increase costs for fund members and we are concerned to limit any duplication in regulatory burdens for our funds.

Impact on Insurers and Fund Member Premiums

We are conscious that proposed intensification of regulatory activity for insurers is likely to result in increased costs, resulting in increased premiums, which will ultimately be borne by members. If this increased regulation is essential and inevitable and results in corresponding benefits, then we are mainly concerned that the regulation should be carried out efficiently and without regulator clash or duplication of activity.

Impact on Fund Trustees

Trustees are subject to extensive legal, regulatory and equitable obligations to pursue the best interests of members including those who have submitted benefit claims (death, total and permanent disablement, and income protection). These obligations are independent and distinct from those that apply to insurers.

Our major concerns in respect of the Paper’s proposals relate to the potential inclusion in the proposed new definition of “financial service” of fund trustees’ activities in the area of claims handling. This is an aspect that is acknowledged in the Paper as an outcome which the Royal Commission did not contemplate. Our trustees, as noted in the Paper, play a significant role in claims handling. The potential consequence of their activities being treated as a financial service, and moreover potentially as personal financial advice, would be to place a hugely increased burden and cost on the trustee and hence on the fund members.

Generally, our trustees own the policies which provide insurance cover for the members, so although claims may be received directly by an administrator and sent straight to the insurers, it is the fund trustee’s responsibility to oversee and follow through the claims that arise.

In some cases trustees still self-insure in respect of defined benefits, and APRA has specific scrutiny processes that apply in these cases. The obligations for trustees to oversee claims processes remain the same.

Existing Regulation of Trustees’ Claims Handling

Our fund trustees are subject to significant obligations to put in place stringent protocols to manage the provision of fund member insurance and to ensure the provision and administration is appropriately delegated. Compliance with these requirements is regulated by APRA.

These obligations exist under:

- trust law,
- equity,

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- the *Superannuation Industry (Supervision) Act 1993* (Commonwealth) (**SIS Act**) which includes a specific insurance covenant, and related regulations, including complaints regulations, and
- APRA standards and guidelines, in particular in relation to insurance and outsourcing.

Further, our funds have robust claims handling processes to satisfy the general obligations of section 912A of the *Corporations Act 2001* (Commonwealth) and the requirements of the Insurance in Superannuation Voluntary Code of Practice.

To add insurance claims handling by fund trustees to the list of financial services would result in application of an additional regime, resulting in surveillance by multiple regulators with jurisdictions in overlapping areas, with consequent potential for conflicts.

Our trustees typically monitor the claims handling processes. One fund reports that its Board is regularly informed about claims handling by being provided with a claims management report which provides statistics on numbers of claims received during the period, number of claims assessed, the duration of claims and in particular claims with durations greater than 6 months. This level of scrutiny is typical for our funds.

One of our funds which performs its own administration services, is closely involved in the claims handling. The fund has specific systems to manage and oversee the training and education of staff on claims handling and to oversee decisions of the claims handling team. Funds whose claims are handled through external administrators also require regular briefings about the management of claims.

It is our impression that it would not be intended to involve fund trustees in regulation by ASIC of their claims handling processes, given the regulation that already governs the conduct of trustees in relation to management of fund members' insurance needs and claims.

Framing an exclusion

We understand that it is not intended that trustees be caught by the new definition, given the nature of their role in claims handling and the existing layers of regulation which appropriately cover the situation. We urge that the modifications to Regulation 7.1.33 be framed so as to leave an exception for trustees overseeing the claims handling process on behalf of their members.

Yours sincerely



Mark N Cerche
Chairman