



File Name: P575

25 August 2004

Study of Financial System Guarantees
c/- Department of the Treasury
Langton Crescent
PARKES ACT 2600
fsgstudy@treasury.gov.au

Dear Sir/Madam,

The Association of Superannuation Funds of Australia Ltd. (ASFA) welcomes the opportunity to make this submission to the Study of Financial System Guarantees.

ASFA is a non-profit, non-political national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. Our members, which include corporate, public sector, industry and public offer superannuation funds, account for more than 5.7 million member accounts and over 80% of superannuation savings.

Existing Part 23 of the SIS Act

ASFA supports the existing compensation regime for superannuation fund members as set down in Part 23 of the *Superannuation Industry (Supervision) Act 1993* ("SIS"). Public confidence in superannuation is increased through the availability of suitable compensation arrangements dealing with matters such as loss due to fraudulent activity and theft.

We recognise the need to "fine-tune" Part 23, with some of our suggested changes to the Treasury Review of Part 23 to be implemented by Government. In the main, Part 23 has proven to be a flexible and effective mechanism for compensation.

Funding

ASFA supports post-funding of consumer compensation. Pre-funded schemes, such as the Pension Benefits Guaranty Corporation in the United States, have the potential to increase risks associated with moral hazard and impose considerable additional costs on members given the need to manage any funds collected.

Federal Secretariat

Level 19
Piccadilly Tower
133 Castlereagh St
Sydney NSW 2000

PO Box 1485
Sydney NSW 1005
Tel: (02) 9264 9300
Fax: (02) 9264 8824

X:\fsgstudy.treasury.gov.au\content_download\submissions\ASFA.doc 25/08/2004 4:44 PM

The Association of Superannuation Funds of Australia Limited ABN 29 002 786 290 ACN 002 786 290
ASFA Website: www.superannuation.asn.au



The Voice of Super

Coverage

ASFA broadly supports the view expressed in the Study of Financial System Guarantees Discussion Paper (“Discussion Paper”), that superannuation funds would continue to be covered by Part 23 of the SIS Act and operate outside of any new general financial system guarantee regime.

In respect of post-retirement income stream products, it is our view that post-retirement income stream products provided by superannuation funds and regulated by APRA would be covered under Part 23. However, losses associated with life office income stream products provided outside of the superannuation trust structure may not be similarly covered. ASFA would support the inclusion of such products under any general financial system guarantee regime.

ASFA does not have a strong view about the treatment of RSAs and RSA-like products though we acknowledge the issue of competitive neutrality for their exclusion from a general financial system guarantee regime. We would suggest the Study further pursue such issues directly with RSA providers.

Eligibility for Compensation

The Discussion Paper at paragraph 6.15 asks whether any guarantee regime should distinguish between “retail” and “wholesale” consumers. ASFA would support a regime that focuses on compensating individual consumers as opposed to compensating sophisticated business enterprises.

However, in compensating individual consumers, the regime needs to take a flexible “look through” approach. Often a superannuation fund trustee will hold a financial product that is used to provide direct benefits to a fund member. Such circumstances needed to be dealt with in respect of the HIH compensation scheme. Many superannuation fund trustees held salary continuance policies that were affected by the collapse of HIH. These policies were used to pay salary continuance benefits to affected individuals. The combination of the invalid policies and trust deed restrictions meant these funds were unable to legally continue paying these benefits.

Initially, such policies were not covered by the HIH compensation scheme. However after ASFA raised concerns with Government and HIH Claims Support, compensation payments to individuals affected were permitted. We would hope that a similar “look through” approach would be used where a financial product (ordinarily an insurance policy) was used to provide a benefit to a member.

We do however recognise that if business insurance were excluded from the guarantee regime then certain financial products held by a superannuation fund trustee that do not provide direct benefits to an individual (for example, trustee indemnity insurance) would likely need to be excluded.

Federal Secretariat

Level 19
Piccadilly Tower
133 Castlereagh St
Sydney NSW 2000

PO Box 1485
Sydney NSW 1005
Tel: (02) 9264 9300
Fax: (02) 9264 8824

X:\fsgstudy.treasury.gov.au\content_download\submissions\ASFA.doc 25/08/2004 4:44 PM

The Association of Superannuation Funds of Australia Limited ABN 29 002 786 290 ACN 002 786 290
ASFA Website: www.superannuation.asn.au



Governance and Accountability

The Discussion Paper puts forward the argument that either APRA or a new statutory authority would be best placed to meet the policy objectives sought after in administering a limited guarantee.

ASFA does not have a strong view as to whether APRA or a new statutory authority is best suited to administer a new financial system guarantee regime. Regardless, it is important that either APRA or the new statutory authority develop appropriate policies and acquire appropriate skills to ensure they can deal with claims for compensation in an efficient and effective manner.

In respect of transferring Part 23 responsibilities to either APRA or the new body, ASFA favours the decision-making over Part 23 remaining with the relevant Minister, a view supported in the Treasury Review of Part 23.

If you have any questions or comments on the items raised in this submission, please feel free to contact me or Dr Brad Pragnell, Principal Policy Adviser on 02 9264 9300.

Yours sincerely,

Dr Michaela Anderson FASFA
Director Policy and Research

Federal Secretariat

Level 19
Piccadilly Tower
133 Castlereagh St
Sydney NSW 2000

PO Box 1485
Sydney NSW 1005
Tel: (02) 9264 9300
Fax: (02) 9264 8824

X:\fsgstudy.treasury.gov.au\content_download\submissions\ASFA.doc 25/08/2004 4:44 PM

The Association of Superannuation Funds of Australia Limited ABN 29 002 786 290 ACN 002 786 290
ASFA Website: www.superannuation.asn.au