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Your Future, Your Super Regulations and associated measures

Cbus welcomes the opportunity to comment on the Exposure Draft Your Future, Your Super Regulations and associated measures.

About Cbus

Cbus has the proud history of being one of Australia's first industry super funds. Cbus was formed in 1984, when building and construction workers won the right to superannuation. Today, we have grown into a leading industry super fund, open to all while maintaining a focus on the industries that build Australia. We work hard to make sure that the super system is delivering for our members.

Cbus, with over 779,000 members, mostly male and overwhelmingly hailing from the building and construction industries, is one of the best performing funds, with investment performance of 8.98% per annum since inception in 1984. Funds under management total over $61 billion as at 31 March 2021.

Cbus is a bespoke fund for the building and construction industry. Our products and services are tailored to our members' needs; the most obvious (but not only) example is our insurance cover. Cbus' insurance policy supports 556,000 members and we have a particularly strong record of benefit provisions to members. $298 million in claims were paid for the 2019/2020 year for close to 3,000 claims. Around 96% of all life insurance claims are accepted, and 94% of total and permanent disability claims are accepted.

The majority of our members are tradespeople – they have unique working lives and a unique pathway to retirement. They start work and form families earlier than the general population. Very few work full time for decades. They are more likely to retire early – though not by choice, and as a result have lower average retirement savings. In addition to super, our members also rely on us to provide tailored life and TPD insurance – because they work in hazardous industries, cover with other funds that is not designed for building and construction workers is unlikely to meet their needs, while individual cover is either not available or not affordable.

Summary of our submission

Whilst Cbus supports the policy intent of the Government's proposals to reduce the incidence of multiple accounts, address underperformance, and ensure members' retirement savings aren't unduly eroded by high fees, we remain concerned that the proposed Bill and Exposure Draft Regulations will create unintended consequences that are contrary to these stated policy objectives and will leave large cohorts of members worse off.

Cbus has already made several submissions on the proposed Bill, raising our numerous concerns and therefore has focused this submission on the continuing lack of consideration on the impact of insurance in the proposed Bill, Explanatory Memorandum and the Regulations. We also continue to advocate that significant superannuation reform must not be implemented via Regulations and that the substance of the package of reforms must be included in the Bill and subjected to full Parliamentary oversight.

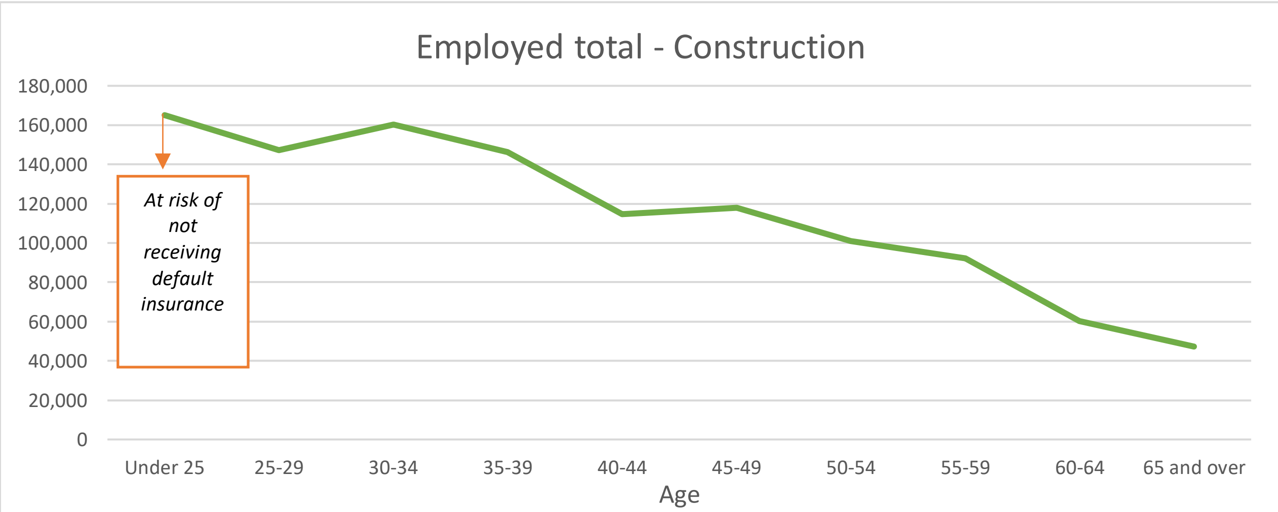
Our concerns and recommendations on the Exposure Draft regulations are summarised below:

Concern	Recommendation
The Government argues proposed changes implement Productivity Commission recommendations yet there remains a substantial difference between what was recommended by the PC and what is proposed by the Government	• Government must provide a comprehensive formal response to the 2019 Productivity Commission review of superannuation. As recommended by the Productivity Commission, Government should implement measures to remove underperforming funds from all parts of the superannuation system before the rest of the package is implemented.
There remains an excessive reliance on regulations that are not subject to full Parliamentary oversight. The regulations were not released in time to be considered by the Senate Inquiry into the Bill.	• The substance of the package of reforms must be included in the Bill and subjected to full Parliamentary oversight. Important superannuation policy change must not be implemented via regulations.
The regulations completely omit provisions and requirements on proposed changes to Best Financial Interests duty	• Measures should be sector neutral- retail funds must be required to disclose the value of members' money paid to parent entities as profits and expenditure paid by related parties relating to a super fund that is part of a corporate group, e.g. advertising costs. Retail funds must be required to ensure that these payments are in the best financial interests of members. • The proposed reversed onus of proof cannot be justified and must not be implemented. • The proposals should be subject to a materiality threshold. • The proposed power to ban payments and investments that are in the best financial interests of members cannot be justified and should not proceed.
Members are still at risk of being stapled to an underperforming fund	• The benchmarks must apply to every superannuation product, from the same date, as recommended by the Productivity Commission. The benchmark RAFE should be based on the median RAFE for all APRA regulated superannuation products. • The consequences of failing to meet the proposed performance benchmark should be strengthened to protect existing members and avoid a new generation of members being left to languish in underperforming legacy products, as recommended by Productivity Commission. • The performance benchmarks must be implemented before the proposed stapling measure to ensure that members are not stapled to underperforming funds. Reforms to the successor fund transfer process to facilitate industry consolidation must also be made before stapling is introduced.
Proposals to not deal with existing stock of multiple accounts.	• Increase the threshold balance trigger for auto-consolidation of inactive accounts to the ATO
Commencement date is not feasible	• The commencement date should be 1 July 2022 for performance benchmarking, followed by later commencement dates for other measures once it is clear that underperforming funds have been removed from the system. • Stapling should not be introduced into Parliament until an automated system has been built and properly user tested.
Continued lack of consideration on the impact of members insurance benefits	• Cbus recommends that Treasury Laws Amendment (Your Future, Your Super) Bill 2021 be amended to introduce a safeguard to ensure that workers in the top quintile of hazardous occupations, including building and construction workers, are not stapled to their first fund, but rather continue to default into the appropriate industry-specific fund which offers insurance suited to their needs.

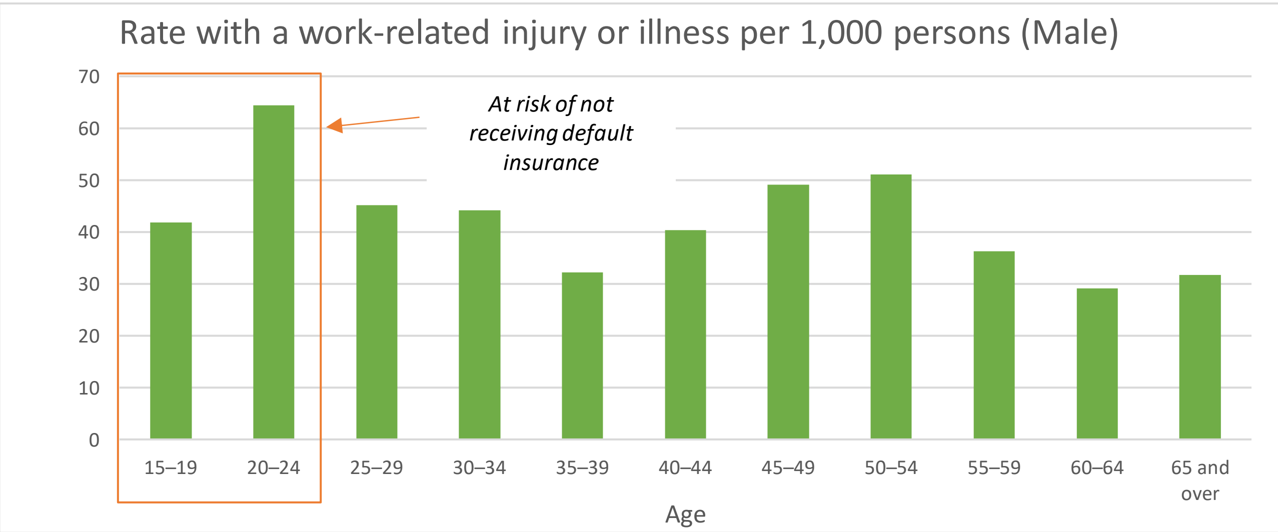
Insurance inside of super is a vital safety net
Insurance within superannuation is a vitally important safety net for millions of Australians who may not otherwise be able to take out insurance cover, especially for those working in physically demanding and hazardous occupations such as the building and construction industry. We remain concerned that within the Bill, Explanatory Memorandum and proposed Regulations there is not a single mention of insurance, despite numerous stakeholders raising concerns on the impact of insurance by the proposed measures.

In particular, we remain concerned that no consideration has been given to the impact of stapling on members working in hazardous occupations that are currently protected under the dangerous occupation exception, passed into Parliament in 2019.

A significant number of young workers at risk
Alarmingly, if an exemption is not provided, young apprentices working in the building and construction industry for the first time are at significant risk of working without life and TPD insurance at a time in their working life when they are most likely to be injured. Given that as at February 2021, over 165,000 persons under 25 years of age were employed in construction, this is not a small cohort that would be expected to be joining the building and construction industry and be at risk of not receiving much needed default insurance protection.



Source: ABS, Labour Force March 2021, https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release



Source: ABS, Work-related injuries, 2017-2018, https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/work-related-injuries/2017-18

Young workers and those new to the job are most likely to get injured
The construction industry is a male-dominated industry, unfortunately however young men are also the most likely suffer from a work-related injury or illness. The incident rate of experiencing a work-related injury or illness is highest for men aged 20-24. Young workers aged under 25 also accounted for 15% of fatalities in the construction industry, compared with 9% of fatalities across all industries[1]

In addition, workers in their first month are four to six times more likely to experience a work-related injury or illness than those who have been on the job more than a year[2].

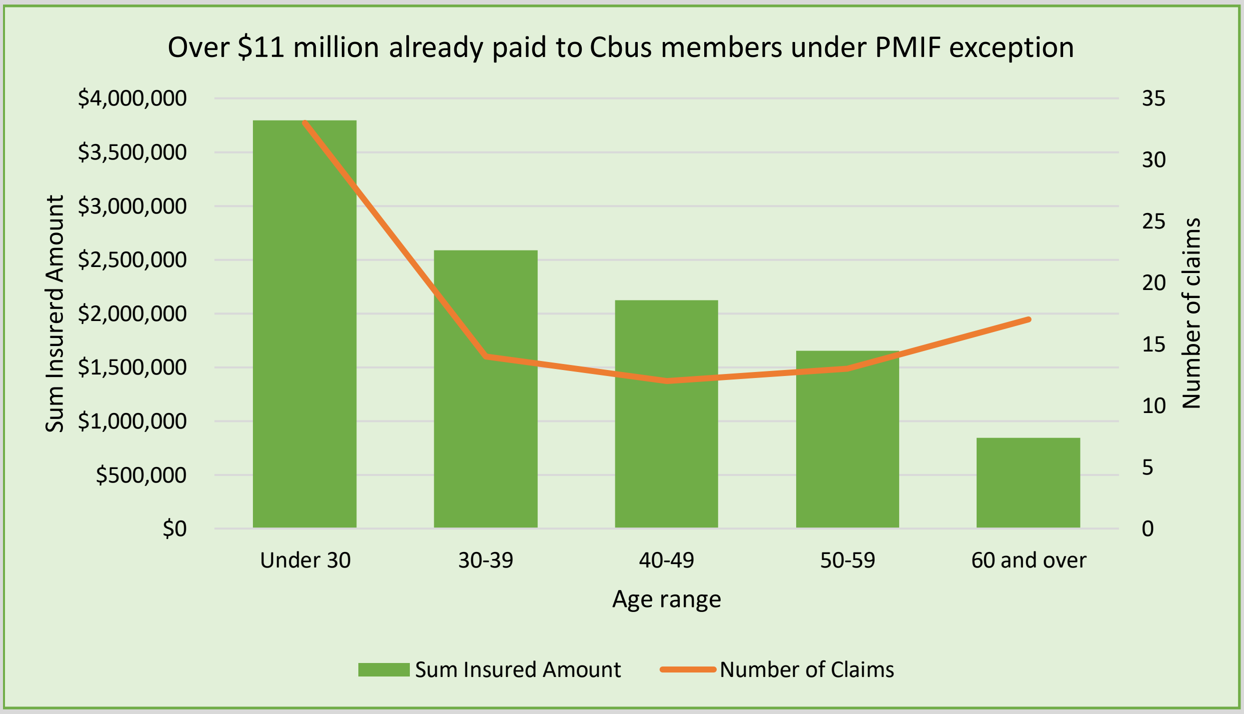
Cbus young members successfully claim against Cbus' default group insurance
Young Cbus members feature strongly in our claims. In the five years from 2014-2019 (inclusive), Cbus paid out 491 life and TPD claims to members aged under 25, equating to $61,188,500 in claims paid – make a significant difference to the lives of Cbus members and their loved ones. This is particularly pertinent given that blue-collar building and construction workers are more than twice as likely than the general population of the same age to have dependents (defined as having a parting and/or child).

Cbus recommends that Treasury Laws Amendment (Your Future, Your Super) Bill 2021 be amended to introduce a safeguard to ensure that workers in the top quintile of hazardous occupations, including building and construction workers, are not stapled to their first fund, but rather continue to default into the appropriate industry-specific fund which offers insurance suited to their needs. This will ensure that they are covered by high quality, industry-specific insurance from their first day on site. The Parliament recognised this imperative as part of the Putting Members' Interests First changes to insurance and Cbus recommends a consistent approach here.

[1] https://www.safeworkaustralia.gov.au/sites/default/files/2020-11/Work-related%20traumatic%20injury%20fatalities%20Australia%202019.pdf
[2] https://www.worksafe.vic.gov.au/young-workers-safety-basics

What is the dangerous occupation exception?
Putting Members' Interests First (PMIF) legislation passed Parliament in 2019 and removed default insurance cover for members aged under 25 and with a balance of less than $6,000. At this time the Parliament recognised the unique needs of workers in hazardous industries and the critical importance of insurance in super to protect them and their loved ones and provided an exception so they could continue to receive default insurance cover.

How has the dangerous occupation exception helped Cbus members?
Cbus and only a handful of other funds retained the ability to continue providing default opt-out insurance to young members working in dangerous jobs, based on independent actuarial advice about the nature of their membership's work and working environments. The Dangerous Occupation Exception has preserved vital insurance cover for 130,400 building and construction workers since April 2020. More than $11 million has already been paid to 89 Cbus members or their beneficiaries in that short time. Those workers may not have had any insurance at all, had the exception not been granted. A significant portion of these members that received an insurance payment are aged under 30 years of age.



How will stapling take into account the exception?
Currently there is no mechanism in either the Bill or draft Regulations that prevents unintended negative insurance implications for members working in hazardous industries. In particular, young and low balance members that are new to the building and construction industry are likely to be 'stapled' to a fund that does not offer default insurance and therefore are at risk of being uninsured at a time they are most at risk.