

Monday 4 December 2023

By Email

Anna Schneider Rumble
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Dear Ms Schneider Rumble

Submission to Treasury's consultation on Delivering Better Financial Outcomes – reducing red tape and other measures

1. Hostplus welcomes the opportunity to make this submission to Treasury in response to the draft legislation implementing the first tranche of the *Delivering Better Financial Outcomes* package of reforms.
2. Hostplus is a national industry superannuation fund that represents c.1.7 million members and has c.\$100 billion in funds under management. Just over 88% of Hostplus members are invested in the MySuper/Balanced option.
3. Further, over 37% of new Hostplus members joined the fund in FY23 based on an active choice (not by default), with many of those members electing to invest in the Hostplus MySuper option.
4. These statistics demonstrate the active consideration and choice that Hostplus members are making to invest in the Hostplus MySuper option and are important in considering our submissions outlined further below.
5. Hostplus is broadly comfortable with the proposed amendments to the Corporations Act, the SIS Act and other legislation to increase accessibility and affordability of personal financial advice by improving the experience for consumers and removing unnecessary regulatory red tape.

6. This submission responds to that section of the draft legislation addressing *Recommendation 8: streamlining ongoing fee renewal and consent requirements and removing the requirement to provide a fee disclosure statement*.
7. As further explained below, whilst Hostplus supports the intent of the reforms, it considers that the proposed laws can be improved to better meet the financial interests of superannuation fund members, including those invested in MySuper products.

Background

8. The following background matters are relevant to Hostplus' submission.

Rules in relation to MySuper accounts

9. Approximately 60%¹ of all superannuation accounts are currently invested in a MySuper product. Stapling measures are likely to see this proportion increase over time.
10. Following recommendations made during the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, from 1 July 2021, laws were introduced prohibiting ongoing fees being deducted from a MySuper account.²

Nature of financial advice related to superannuation

11. Financial advice related to superannuation typically addresses matters including, but not limited to:
 - a. product selection, including risk profiling and investment choice;
 - b. insurance needs, contributions and retirement modelling; and
 - c. strategies requiring dual accounts, for example a Transition to Retirement strategy.
12. Depending on the client's needs, a regular or ongoing relationship with their financial adviser may be appropriate to ensure outcomes remain on track.
13. Further, as explained below, Hostplus has in its experience observed several instances where the above forms of financial advice have been utilised on an ongoing and regular basis through Fixed Term Agreements by members in the MySuper investment option.

Single Consent Form

14. The *Quality of Advice Review* notes the importance of product issuers, in particular superannuation fund trustees, playing an active role in the oversight of financial advice provided to the trustee's members.
15. In particular, superannuation fund trustees have an obligation to not only ensure the advice for which the fee is paid has been provided to the member, but also that the advice relates to the member's interest in the superannuation fund. The Review noted in respect of those obligations that trustees "*will require some means of overseeing the advice that is provided by advisers and in turn this will affect an adviser's practice*".

¹ As at September 2022, superguide.com.au

² Transitional requirements operated for the 21/22FY

16. To assist trustees in properly discharging these important oversight and monitoring obligations in the best financial interests of members, Hostplus submits that the proposed single consent form should include the following information:
- a. Adviser information, including:
 - i. adviser name;
 - ii. business name;
 - iii. contact details (phone number and email address);
 - iv. adviser AR number; and
 - v. AFSL name and number.
 - b. Member identification information, including:
 - i. member name;
 - ii. contact details (address, phone number and email address);
 - iii. date of birth; and
 - iv. member number (this may be optional, as some fee agreements are signed prior to the establishment of an account).
 - c. Details of the advice/service(s) that are or will be provided to the member.
 - d. The ability to nominate whether the fee will operate as a Fixed Term Agreement or Ongoing Fee Arrangement (see Fixed Term Agreements section below for further detail).
 - e. An adviser signed declaration acknowledging the following matters:
 - i. that advice fees requested from a superannuation fund must at all times relate to advice and services that are provided to the member in connection with the member's interest in the fund; and
 - ii. that product issuers may apply different rules and have additional requirements.

Fixed Term Agreements

17. The rising popularity of Fixed Term Agreements (**FTAs**) has arisen as a result of licensees seeking improved oversight of fee arrangements for financial advice and a reduction in compliance obligations compared to those associated with ongoing fee arrangements.
18. ASIC has acknowledged the use of FTAs in its *Information Sheet 256: FAQs Ongoing fee arrangements*, recognising that "licensees and advisers frequently enter into fixed-term agreements for charging a client fees for a period of 12 months or less". Further, ASIC has outlined in that Information Sheet a range of factors it will consider in determining whether or not an agreement is an ongoing or fixed fee arrangement.
19. MySuper product issuers are not restricted from accepting fees in connection with a genuine FTA, with many funds including Hostplus allowing the deduction of these fee types.

20. However, despite the industry use of FTAs and the regulatory acknowledgment and acceptance of those arrangements, the draft legislation does not address the existence of FTAs.

21. By ensuring the single consent form includes the information listed in paragraph 16 (a) to (e) above, particularly the specification of FTA or ongoing fee arrangements, advisers, licensees and product issuers will have sufficient information and means to discharge their fiduciary duties in a manner consistent with the best interests of their clients and members (as applicable), including in connection with MySuper products in which the majority of superannuation investment accounts are held.

Conclusion

22. We are available to speak to any aspect of, and expand upon, this submission at the convenience of Treasury.

Kind regards,



David Elia

Chief Executive Officer

