



CORPORATE SUPER SPECIALIST ALLIANCE

19 February 2014

General Manager
Retail Investor Division
The Treasury
Langton Crescent
PARKES, ACT, 2600

Email: futureofadvice@treasury.gov.au

CSSA Response to the Corporate Amendment Bill

The CSSA and its Members

The Corporate Superannuation Specialist Alliance (CSSA) is an association that represents corporate superannuation specialist advisory businesses. CSSA members provide financial advisory services to thousands of corporate superannuation funds, across metropolitan and regional Australia, and play an essential role in managing Australia's large and growing superannuation savings pool.

CSSA members work with Australian companies and their employees to provide them with improved life insurance and superannuation outcomes via their corporate superannuation plans; they provide a broad range of services to corporate super plans at four levels :

- the employer level;
- the policy committee (representative body) level;
- the individual super fund member level, and
- super fund members collectively.

These services help employers and policy committees ensure members are getting competitive benefits and features, at a competitive price, and that members have access to general advice and information to help them improve their decisions about their retirement savings and life insurance choices.

Our concern is that FoFA in its present form, working in tandem with MySuper legislation, will have the impact of dramatically reducing the access superannuation fund members have to our services. This will therefore result in many less Australians having access to advice and proactive education.

After discussion with Treasury (and at the request of Treasury) our submission outlines suggested changes to both MySuper and FoFA legislation, as we are attempting to provide a full picture solution.

Our submission focuses on 4 central issues.

1. **The structure and payment of Intra-Fund advice fees.** The current structure is opaque and does not best serve the interests of super fund members. The fees are determined by and paid by the product provider – employers and fund member no longer have a say.
2. **Product Selection Services and Conflicted Remuneration.** Corporate Super Specialist advisers cannot currently operate their businesses. If they make default super fund recommendations to employers and receive any ongoing revenue from the fund, the revenue is deemed to be conflicted, despite many efforts to rectify this issue.
3. **Commissions on group insurance within superannuation.** The removal of commission on group insurance within superannuation is distorting the insurance market and will lead to worse consumer outcomes.
4. **The impact of the transition of ‘accrued default amounts’ to MySuper.** Many fund members will be adversely impacted. If transition proceeds as planned investment risk will be changed and valuable insurance benefits will be lost. Costs may increase.

Legislation and its Effect on Corporate Super Specialists

The CSSA would like to congratulate the Government on its commitment to reducing red tape and therefore compliance costs for small business, financial advisers and consumers who access financial advice. We feel it makes sense to simplify the recent FoFA legislation, without reducing consumer protection in the process. We are also confident that this will provide a better outcome for all parties.

We agree that this outcome will be aided by removing General Advice from Conflicted Remuneration and by making the process of the provision of scaled advice simpler. The former should not be viewed as an opportunity to re-introduce commission. It should not be difficult to legislate to prevent this.

The CSSA strongly supports the Government’s aim to bring financial advice to more Australian people. This is close to our hearts as CSSA members have been providing proactive financial education and advice for many years.

The collective goal of the members of our association is the improvement of the retirement lifestyles of our clients (our superannuation fund members). We try to achieve this by increasing their financial literacy; by providing workplace education, general advice and services (a sample list of our services is attached) and personal advice, if an individual chooses to engage us to provide this. The latter service is paid by the individual.

The Association of Financial Advisers (AFA) commissioned some Corporate Super Research in early 2011 from brandmanagement, an extract of which is attached as an appendix.

We feel that the research results clearly demonstrate how much both employers and their employees value the services of Corporate Super Advisers. The positivity of the results even surprised us; it provided us with the drive to continue to try to achieve better legislative outcomes for our clients. We want to be able to remain in business and to continue to provide them with the services that they value.

The CSSA has therefore been very involved in the FoFA and MySuper regulatory reform process, providing various submissions to Government and also giving evidence at PJC and SEC hearings. The extract below, from the 2012 PJC report into FoFA, outlines the Committee's view on the services provided by CSSA members:

Committee view

5.51 The committee considers that corporate superannuation specialist firms promote choice in the market and these valuable services should continue to be provided. The committee emphasises that employers may choose the form of remuneration most suitable to their circumstances following the reforms.

5.52 The committee believes that corporate superannuation specialist firms should continue to receive benefits where they represent a 'reasonable fee for service' or a value of scale efficiencies.

5.53 The committee proposes that Treasury conduct further consultation with the corporate superannuation specialists firms to discuss alternative viable models of remuneration that align with the FOFA reforms.

As recommended by the Committee, the CSSA consulted with Treasury in an attempt to find a viable remuneration model that was aligned with the FOFA reforms. Treasury advised us that the Intra-Fund fee would be the vehicle by which Corporate Super Advisers could be remunerated going forward under MySuper.

Unfortunately the proposed solution is unworkable, as Intra-Fund fees have been deemed conflicted remuneration under FoFA if paid to Corporate Super Specialists, if the employer is assisted with default fund selection. Also, Intra-Fund fees are set by providers and are not determined by the amount of work required at each workplace. Corporate Advisers are now effectively working for the product providers whereas in the past the relationship was primarily with the employer and the fund members.

CSSA members are therefore currently left without a workable business model.

Intra-Fund Advice

The only collective advice fee allowable within the current MySuper legislation is the Intra-Fund advice fee. The superannuation fund administrator has the ability to pass on part of the administration fee it charges its fund members to a third party, to pay for the provision of general advice and services within the fund. This is achieved in the form of an outsourced agreement.

The CSSA has serious concerns with the way this fee is currently structured. In its present form it does not assist in achieving the stated goals of improving the quality of financial advice while building trust and confidence in the financial advice industry.

The fee is not known to fund members and is effectively paid as a (secret) commission. **We suggest that the Intra-Fund fee is transparent (i.e. separated from the administration fee).** This will also promote the availability of such advice.

Many of the major benefits CSSA members provide to our clients are as a result of our advocacy. At the employer level we regularly negotiate lower fees and lower insurance premiums, higher levels of automatic insurance cover, better ancillary benefits and better service outcomes. These negotiations benefit all members of the fund. At the member level we often act as the member's representative in disputes with the superannuation fund administrator and insurer. We have, on many occasions, negotiated better outcomes for members; such as improved insurance claims, the payment of anti-detriment payments, the refunding of excessive or incorrect fees.

We suggest that the Intra-Fund fee should be negotiable at the workplace level in the same way that administration fees are negotiable. A collective fee is appropriate as the work we do benefits all fund members.

Intra-Fund fees should be a 'dial up' fee structure, with the fee being based on the amount of work required at the individual workplace. This can vary greatly and is influenced by factors such as the location of the workplace (it may be remote and difficult to get to) the demographics of the workforce, and the requirements for policy committee and other meetings. The complexity of the fund structure in areas such as insurance, or the incidence of insurance claims may also necessitate more work for the adviser and therefore a higher fee could be dialled up to pay for this, if agreed.

Alternatively, MySuper legislation could be altered to allow the payment of a plan service fee, if this fee is agreed to at the workplace. This fee could then be disclosed to members so they are aware that they are paying a fee for the services of an adviser, and so that it is not confused with the Intra-Fund services provided by the superannuation fund itself. This may in turn encourage members to use the services the adviser provides.

At the core of the Corporate Superannuation problem is that advice is provided to the employer, but the fees are typically deducted from the members account. This means that the existing client pays exemption does not apply. Where fees are paid for ongoing services after the recommendation of the fund, it is arguable that this is conflicted remuneration. When considered in the context of the MySuper rules, this presents a fundamental obstacle to corporate super advisers being able to provide services to new clients. We believe that the best option is to provide a further extension to the client pays exemption that would provide for this to cover fees agreed with the employer on behalf of members.

If these changes are made, CSSA members will be able to provide more proactive advice, education and services that are desired by, and are in line with the requirements of, the workplace, and are paid for by the workplace participants. The current structure seems less than ideal, as the fund administrator is paying a fee for the services it wants to provide without necessarily considering the needs or demands of an individual workplace.

Product Selection Services and Conflicted Remuneration

1. Market Imbalance

Small to medium sized employers will often engage Corporate Super Specialists to help them to select an appropriate superannuation fund for their employees (which generally include the proprietors and senior staff). It is therefore in the employer's best interest to select a fund that will provide the appropriate outcomes for their staff. Fees and insurance premium costs are often major factors in the decision making process.

CSSA members have been providing Product Selection Services to employers as a core part of their business services for many years. Most small to medium employers are unable, or unwilling, to afford to engage actuarial firms to perform this task.

Conflicted remuneration rules now prohibit Corporate Super Specialists from providing both Product Selection Services and Ongoing Services to an employer, as it is perceived that the selection of a fund may be influenced by the willingness of that fund to pay ongoing revenue to the adviser.

If a Corporate Super Specialist is receiving ongoing revenue from a company's superannuation fund, the Corporate Super Specialist cannot even advise the employer that they feel the incumbent fund may be inappropriate for their employees' needs, as doing so is deemed to make any ongoing remuneration 'conflicted'.

Some superannuation providers and Financial Services Licensees are explicitly prohibiting Corporate Super Specialists from providing any advice or service to the employer as their legal advisers are concerned that doing so may breach the conflicted remuneration regulations if ongoing income is paid.

As a result, CSSA members must now choose whether to provide Product Selection Services or Ongoing Services. Most firms will choose the latter due to the ongoing income received, as Product Selection Services are often provided as a low or no cost service to the employer and provide no surety of ongoing income.

With, hopefully, the opening up of the default superannuation fund market to allow any MySuper compliant fund to be an employer's default fund, the demand for tender requests will no doubt increase dramatically. Employers will surely seek to reduce their red tape and compliance costs by consolidating to one default fund for all their employees, rather than having to contribute to multiple funds as is the current requirement of the modern award regime.

Employers will not be able to access the services of Corporate Advisers if the conflicted remuneration issue is not satisfactorily resolved.

2. Solutions

We believe that there will cease to be a conflicted remuneration issue if the solution to the Intra-Fund advice or plan service fee we have proposed above is accepted.

If the fee that an adviser receives is agreed upon and set, irrespective of the fund that is recommended to the employer or selected by the employer, and if the fee is transparent and negotiated at the workplace level (i.e. regardless of which fund the employer decides upon, the intra-fund advice fee paid to the adviser will be the same) then it seems difficult to understand how any conflict could be perceived, or could in fact occur.

If neither solution is acceptable to Government we are committed to working with the regulator to find a workable solution as it is imperative to the efficiency of the market that we are able to advise employers as well as provide ongoing services to employees.

Group Insurance Commission

1. Understanding the Group Insurance Structure

The CSSA believes the current ban of commissions on group insurance within superannuation is flawed, and has possibly been based on a misunderstanding of the structure of group insurance within super.

While we do not argue for commission to be paid on legislated default levels of MySuper insurance within funds, where no advice has been provided, we do feel that MySuper members who enjoy the benefits of a formula-based insurance structure should share the cost of administering this cover as they will also receive the resulting benefits.

Most superannuation funds have implemented their MySuper solution to members by creating another investment option that complies with the MySuper guidelines. Many of these members have existing investments within the same superannuation fund, and they also have an existing life insurance structure that, in many cases, was based upon advice given to their employer by a financial adviser.

In some cases the adviser would have assisted the member to obtain additional insurance or to qualify for levels of insurance that were beyond the fund's Automatic Acceptance limit. (This could and will still occur with new members who join a fund after the commencement of MySuper).

The adviser would also have negotiated lower premiums and higher levels of Automatic Acceptance (cover that is provided automatically upon joining the plan, with no requirement for medical evidence or underwriting).

MySuper legislation has not replaced the existing insurance categories in employer funds; it has merely prescribed a minimum amount of insurance cover that must be provided on an opt-out basis. Most new 'MySuper' members will automatically be provided with category based insurance cover, which will generally be much more comprehensive than the legislated minimum cover and will in many cases include salary continuance insurance.

As Australians are predominantly underinsured this is a good outcome, as it provides increased cover, however without the involvement of advisers many people will:

- not understand their entitlements,
- not apply for all the cover they are entitled to,
- potentially cancel the cover they obtain automatically, as they will not be educated as to the importance of this cover,
- not (or incorrectly) nominate their beneficiaries.

Insurance is a complicated area which a lot of people do not understand. They require the proactive assistance of advice professionals to help ensure they make appropriate decisions.

Higher levels of personal insurance must in turn decrease the Government's costs as dependence on Social Security benefits will also decrease as a result.

If advisers are removed from this market segment there will be nobody advocating on behalf of members; nobody negotiating better premiums, terms and conditions for them.

2. Commissions and Service

Group insurance does not pay upfront commissions to financial advisers, whereas retail insurance pays upfront commissions; often in excess of 100% of the annual premium. There is no 'churn' in group insurance as there is no incentive to change clients from one insurance provider to another; other than to obtain better terms or better premiums for the client. Group insurance is generally less expensive than retail insurance. Ongoing commissions in group insurance generally range from 0% to 22% per annum, as a percentage of premiums paid.

Commission is paid to advisers by group insurers to compensate them for the ongoing services that are provided, not as an upfront reward or an inducement for obtaining new business. The ongoing insurance services advisers provide include:

- Negotiated reductions in premiums, which are often greater than the commission paid to advisers.
- Ensuring members get the cover they want and/or are entitled to.
- Assisting members with application paperwork if they are not covered by, or if their cover exceeds, the Automatic Acceptance Limit provided by the fund.
- Representing members during the underwriting process to ensure that they obtain cover on reasonable terms. This can include arranging medical exams and blood tests, reports from doctors, etc.
- Helping members with their beneficiary nominations to ensure the appropriate people receive the claim proceeds.
- Representing the member or their grieving spouse/family at the time of an insurance claim, be that for death or disability.

Our main concern with the current MySuper legislation and FoFA legislation and the banning of commission or other fee payments to advisers is **"who is going to perform the ongoing duties to service superannuation members"?**

We believe there is already a trend toward lawyers representing superannuation fund members at the time of insurance claims, and we feel this is disturbing as it will:

- Increase the costs for insurers, which will in turn increase insurance premiums
- Extend the time taken for insurers to settle claims.
- Dilute the insurance benefits received by the insured or by the widows, widowers or orphans, as the lawyers' fees will be deducted from a settlement.

Corporate Super Specialists generally have good working relations with insurers and are able to negotiate good outcomes. If the claims process is left entirely up to the insurer, the claimant and their lawyer, the outcomes could often be significantly less beneficial.

3. The Solution

We believe that resuming the payment of commission on group insurances within superannuation will have the impact of:

- Stabilising the group insurance market by returning it to a 'level playing field',
- Discouraging 'churn' – including churn from group to retail policies due to the arbitrage between commission rates,
- Allowing the ongoing provision of advice and services to the members of group policies,
- Reducing insurance costs (or at least control cost increases) by improving participation and reducing litigation,
- Not exacerbating, and hopefully reducing, the incidence of underinsurance,
- Ensuring MySuper only members, who enjoy the benefits of insurance structures that have been previously negotiated within their employer plan, receive the same level of service as their non-MySuper peers, and share the cost of this service.

Transition to MySuper

The CSSA is very concerned that the enforced transition of accumulated default superannuation accounts, as prescribed by MySuper legislation, may result in serious disadvantages to super fund members.

1. Changes in Investment Strategy

Many superannuation funds, in fact the vast majority of retail funds, have a new investment strategy that could result in vastly different outcomes for fund members upon transition.

By way of example, Colonial First State traditionally used the FirstChoice Moderate investment option as the employer default investment option for the vast majority of its employer funds. This is a moderately conservative, actively managed, multi-manager investment option with an allocation to 60% growth assets and 40% defensive assets. The MySuper life-stage investment option that replaces this is a predominantly passively managed investment. The current investment allocation for all member life-stages where members are less than 50 years of age is a relatively aggressive 90% growth and 10% defensive allocation.

In contrast, MLC's previous employer default was their Horizon 5 option which was invested 85% in growth assets and 15% in defensive assets; the MySuper allocation is currently 70% growth assets and 30% defensive, so this will reduce investment risk and therefore potentially reduce longer-term investment returns for investors.

Contrary to what some industry commentators would have us believe, many superannuation fund members have made a conscious decision to join or remain invested in their employers default investment option. Members regularly tell us this.

CSSA members often help to select an employer default based on the workplace demographic and then provide education to members around the relevance of the default option to them as individuals, encouraging them to remain in the fund if it is appropriate. With the advent of MySuper we are no longer able to do this.

Our concern is that members will be compulsorily transitioned from an investment option that they have selected and are familiar and comfortable with, to an investment option that is foreign to them and is not what they want or, potentially, need.

2. Loss of Insurance Rights

Insurance is another major concern. We are very concerned that the transition of members from one superannuation fund to another will result in either a loss of insurance cover or in an increase in insurance premiums.

Some superannuation funds have chosen not to apply for a MySuper license. As a result all of their accrued default members will be compulsorily transitioned to a MySuper fund.

Other fund providers, such as OnePath/ANZ, have created an entirely new MySuper fund so all existing accrued default members will be compulsorily transitioned to the new fund, resulting in different default levels of cover and different premium rates.

3. Fee Increases

We have also seen instances where fees have increased under MySuper, as the negotiated fee in the existing employer default account is lower than the new MySuper default. It seems unfair to compulsorily transition accrued default members to a higher fee environment.

4. The Solution

As a result of the possible negative impacts on accrued default members, and in light of the fact that under MySuper legislation *members have no recourse* against anyone if they are actually disadvantaged, **our recommendation would be to offer transition on an opt-in basis, as opposed to an opt-out basis, for all members who may be disadvantaged by:**

- **A change in investment risk, asset allocation or investment style;**
- **A reduction in insurance cover or insurance benefits;**
- **An increase in insurance premiums, or**
- **An increase in fees.**

We understand the desire to minimise duplicated accounts and duplicated fees. We therefore agree with the compulsorily transition of accrued default members on an opt-out basis if none of the potential disadvantages we have outlined above exist.

Other Amendments

The CSSA is also completely supportive of the Government's proposed new laws:

- removing the need for clients to renew their ongoing fee arrangement with their adviser every two years (also known as the 'opt-in' requirement);
- making the requirement for advisers to provide a fee disclosure statement only applicable to clients who entered into their arrangement after 1 July 2013;
- removing paragraph 961B(2)(g), the 'catch-all' provision, from the list of steps an advice provider may take in order to satisfy the best interests obligation;
- better facilitating the provision of scaled advice; and
- exempting benefits relating to general advice from the ban on conflicted remuneration.

We thank you for the opportunity to provide our input and feedback during the consultation period.

Please feel free to contact us if we can assist by clarifying our suggestions or if there are any questions that arise.

Contacts:

Douglas Latto, President.

Phone: 0425 213 095. Email: douglas@legan.com.au

Gareth Hall, Treasurer.

Phone: 0407 416 000. Email: gareth@yourlifestyle.com.au

Appendix A.

Executive Summary of (AFA) Corporate Super Research conducted by brandmanagement

Adviser Usage & Value

The large majority of respondents who are super fund members use their corporate super fund as their main super fund (86.9%) and one in four (28.9%) nominate the financial adviser provided by the corporate fund as their primary source of financial advice.

Almost all employer respondents (96.8%) say their fund utilises the services of a financial adviser(s) to provide services to their corporate super fund.

More than half of corporate super fund members (52.4%) have used the services of an adviser associated with their corporate super fund. Of those who have not, almost three in four (73.9%) expressed at least some interest in utilising these services.

The large majority of those who use the services offered through their corporate super fund find them valuable to some extent (89.2%), including over one third (35.4%) who perceive the services to be 'very valuable' and a further 9.0% who find them 'extremely valuable'.

Overall 98.9% of employers perceive the advice services offered to their fund as valuable to them as an employer, including more than half that find the services 'very valuable' (53.3%) and one quarter (27.8%) who find the services 'extremely valuable'.

Some 71.1% of employers say the advice services offered are either 'very' or 'extremely' valuable for members.

Employers perceive the services and benefits offered via their corporate super fund to be of greater value to members than the members do. Four out of five employers (81.1%) find the services to be 'very' or 'extremely' valuable compared to just 44.4% of members.

Members highlight tailored information and one-on-one sessions as the greatest value received from their corporate super fund adviser along with the ability to contact their adviser for information and advice and the access to unbiased guidance.

Employers from small businesses are the most likely to claim the services are 'extremely valuable' for members (33.3%). They are also slightly more likely to describe their corporate super fund adviser relationship as 'extremely valuable' (39.4%) than large and medium sized businesses.

Only 3.3% of employers say the relationship they have with their corporate super fund adviser is not really valuable and none say it is not valuable at all.

Employers cite the convenience for members in accessing independent, personalised professional advice, education and information as being the greatest value to members of corporate super advice services.



CORPORATE SUPER SPECIALIST ALLIANCE

Appendix B.

Sample list of services provided by CSSA members

SERVICE	DESCRIPTION
Employer Level Technical Support (reactive)	Provided to the employer on matters relating to superannuation obligations and changes to legislation <ul style="list-style-type: none"> <input type="checkbox"/> Phone based support <input type="checkbox"/> Email based support
Service Plan Agreement	Establish specific employer requirements and lock in service plan
Service Plan Regular Review	Review of service plan with employer to ensure agreed service standards are being adhered and the employer is adequately serviced
Preparation of Policy Committee	Preparing agenda, plan level reports for the period (quarterly, half-yearly, yearly) including legislative economic and industry level updates
Attendance of Policy Committees	Attend, chair and minute the policy committee, allowing for local travel to and from employer
Policy Committee Minutes and Actions	Distribute minutes, follow-up responsible parties
Rollout of New Product Features/ Benefits	An example would be: improved insurance design
Review of Insurance Design, Cost and AALs	Review every 3 years or as required if opportunity arises(e.g. change in demographics, sharp increase in membership and employer request)
Implementation of Insurance Design Changes	Inform employer and payroll of implementation to ensure new employees are put in the correct insurance category, update support material provided to members
Induction Service	Ensure employers have tailored induction materials for employees to highlight the benefits and features of the fund (hard and soft copy) -Emails, packs etc
Induction Sessions (including seminars and one on one appointments)	On-site session to assist members in joining the plan default fund, allowing for local travel
Insurance Underwriting Support (reactive)	Assist members through the underwriting process on a reactive basis
Insurance Claims Support (reactive)	Assist members through the claims process on a reactive basis
Education Sessions (group)	Delivery of group education session on relevant topics e.g. superannuation, retirement adequacy and redundancy <ul style="list-style-type: none"> <input type="checkbox"/> Onsite <input type="checkbox"/> Teleconference <input type="checkbox"/> Electronic
Engagement Sessions (one to one)	Delivery of individual engagement session on relevant topics e.g. completion of paperwork, explain insurance design, features and benefits of their fund <ul style="list-style-type: none"> <input type="checkbox"/> Onsite <input type="checkbox"/> Phone <input type="checkbox"/> Electronic
Fund Establishment , Design and Transition	Design and Implementation of new default fund, policy committee structure and support during company restructures/ consolidation