

20 January 2020

The Manager
Retirement Income Policy Division Treasury
Langton Cres
Parkes ACT 2600

By email: <mailto:superannuation@treasury.gov.au>

Dear Sir/Madam,

Re: Consumer Advocacy Body for Superannuation – expression of interest

Industry Super Australia (ISA) undertakes policy research and advocacy on behalf of over five million members of industry superannuation funds, to ensure that the policy settings for superannuation are consistent with the objective of maximising their retirement incomes.

ISA supports the establishment of a consumer advocacy body for superannuation. Promoting the long-term interests of members so that they can achieve financial security and dignity in retirement is a key objective of ISA. The funding, governance structure, and purpose of the advocacy organisation will be critical decisions that will determine if the body can make a lasting and important contribution in the interests of superannuation fund members.

The concept of a 'consumer' in superannuation is an interesting one because superannuation is not a typical consumer market. Superannuation is compulsory, and has evolved from a workplace right, through industrial negotiation between workers bodies and employer organisations as forgone wages and productivity gains. It was then subsequently formalised universally and legislated through the Superannuation Guarantee. Choice of Fund Legislation¹ then created a so-called consumer market by placing an overlay of choice on top of a strong default system, and of course the system remains compulsory.

This means the role for a consumer advocacy body will need to be different to a traditional consumer association. A traditional consumer group like WHICH? in the UK or CHOICE in Australia compares products, for instance whitegoods like fridges and advocates on issues like consumer safety and fairness of consumer contracts. It is also different from a consumer credit legal centre which undertakes case work around hardship and fairness of contracts and is interconnected into the credit legal system.

¹ Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2005.

Super fund members are not strictly just consumers of superannuation. They have multiple overlapping identities as:

- Employees/workers
- Consumers forgoing some consumption now for future consumption
- Fund members entrusting their savings to representative trustees
- As investors in the economy
- As retirees enjoying the fruits of their labour and savings
- As taxpayers that have funded the aged pension system.

Consequently, there are a variety of organisations that represent these multiple identities. There are unions that represent workers in their employment and who represent them on boards of superannuation funds as representative trustees. There are bodies that represent them as investors in the economy. Industry Super Australia also represents fund members of industry super funds advocating strongly for them on policy positions. There are also organisations that represent and advocate on behalf of the elderly, particularly retirees.

This means the role of a consumer advocacy body needs to carefully be defined and scoped appropriately. We address the scope of the EOI criteria with these comments in mind.

Scope/function

The consumer body should undertake independent consumer advocacy. The group should be responsible for providing consumers with access to key decision-making information and provide general advice about the superannuation system and super funds. For example, we see a role for the group in monitoring and providing policy advice to government on consumer comprehension of financial products and financial decision-making. The consumer body should explicitly be tasked with commissioning and undertaking independent research around the retirement income system and consumer outcomes.

It is critical this is done free from superannuation industry involvement. Equally it is critical these functions represent the needs of **real** consumers / super fund members rather than work is undertaken on issues that are **inferred** to be relevant to consumers without an evidence base.

There are also vulnerable groups of consumers in the superannuation system, for them the system is more than complex, and contains structural barriers preventing participation. In the tradition of other consumer groups, we think there should be a specific requirement to also represent and advocate for these vulnerable fund members. Typically, these groups of consumers include indigenous or First Nations consumers, Non-English-Speaking background consumers and those with broken work patterns and access only to casual employment resulting in low superannuation balances at retirement. These groups are often without a dedicated consumer voice. We consider these groups to be important constituents of any potential consumer group. Here advocacy would and should focus on providing the government with advice to remove any structural barriers and have regard to potential outcomes of legislative reform on vulnerable consumers. A further area where fund members / consumers require advocacy involves the interaction between superannuation and Centrelink and other government agencies and financial measures relevant to retirement.

Governance and accountability

ISA considers that the way the body is governed is critical to how effectively it can advocate for members of superannuation funds. Key to this is that the governing body be independent from the superannuation industry. The governing body should have an equal balance of members with consumer representative experience (i.e., representatives with consumer specialist knowledge and/or experience) and superannuation knowledge and an independent chair. To be classified as independent, the chair or board member must not be:

- a member of any industry association or other consumer advocacy group,
- employed by or hold an office in any entity which is an RSE or holds an Australian Financial Services Licence.

The governing body should have a constitution or terms of reference (which may be in legislation) that sets out:

- The body's objectives and functions,
- A code of conduct for members of the governing body,
- Rules for membership of the governing body,
- Rules for meetings of the governing body,
- Rules for consumer engagement,
- Public reporting obligation through a parliamentary oversight committee, and an annual report submitted to the minister and parliament.
- A review period for the group undertaken by either the Productivity Commission or similar body.

The Governance structure of the group will be essential to its independence and on-going viability as an advocacy body. We agree with AustralianSuper's submission that in order to maintain independence from the financial services sector the consumer group be run as a semi-government agency, which seeks to recruit super expertise.

Crucial to this, there should be some form of representative consumer structure that gives consumers a say in running the organisation or provides advice to the consumer body on what opinions and positions it takes up in its advocacy stances. In our experience the successful consumers groups are structurally in touch with the members they are representing. A good example of this is the Consumer Action Law Centre which draws on its consumer case work to inform its advocacy. Without case work, this will need to be achieved through a consumer consultative panel or through election of consumer members to the board.

Finally, to maintain the independence of the group, we believe the consumer body be prohibited from accepting any sponsorship or funding from any superannuation fund, deposit-taking institution, AFSL or RSE holder, or related entities of those entities.

Ongoing costs and establishment of a Consumer Body

The funding model and costs of the consumer group will depend on the advocacy model determined.

It is vital this funding remain separate from industry and on an ongoing basis separate from government. We note for example, after one Federal Election there was an unfortunate situation where some consumer groups were defunded by an incoming government leaving consumers without financial counselling and access to consumer advocacy. It took years to recover this funding. Equally, if the group is funded by industry, it will feel accountable to industry and may feel constrained in advocating positions which conflict with the industry. This group should be immunised from both possibilities. We recommend that the lost superannuation pool be the appropriate funding mechanism to fund this group either as start up capital or on an ongoing basis (or both) rather than directly from government. The lost superannuation pool by definition is money unable to be reunited with super fund members. It makes sense to use this pool to fund an advocacy organisation that has increasing consumer engagement as a core function.

A handwritten signature in black ink, appearing to read 'Nick Coates', written in a cursive style.

Dr Nick Coates
Head of Research and Campaigns.