

CORPORATE SUPERANNUATION ASSOCIATION Inc.

ABN 97 799 893 065

PO Box 112
Collins Street West
Melbourne Vic 8007
Tel: 0417 114 421 (CEO)
Tel 0414 325 235 (Research Officer)
Email: corpsuper@netspace.net.au
Website: www.corsuper.com.au

29 March 2018

Ms Clare McCarthy
Behavioural Research and Policy Unit
Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 30001

Dear Ms McCarthy

CONSULTATION PAPER 298: OVERSIGHT OF THE AUSTRALIAN FINANCIAL COMPLAINTS AUTHORITY - UPDATE TO RG 139

We refer to the invitation to comment on the proposals in the above Paper issued on 5 March 2018.

Background to the Corporate Superannuation Association

Established in 1997, the Association is the representative body for large corporate not-for-profit superannuation funds and their employer-sponsors. The Association now represents a total of 23 funds controlling \$49 billion in member funds, held in a total of some 275,000 individual accounts.

Of these funds, 14 have outsourced trustee services but maintain significant employer interest through policy committees. In general, these funds are sponsored by corporate employers, with membership restricted to employees from the same holding company group, but we also include in our membership two multi-employer funds with similar employer involvement and focus. A number of our funds have defined benefit divisions.

Size, in terms of funds under management, ranges from \$17billion to \$64million as at 30 June 2016. Some of the smaller funds have their place in the pension fund structures of international groups, hence play an important role in the care and welfare of the worldwide workforces of these groups.

Comment on CP 298 in relation to superannuation complaints only

Timing

Trustee need certainty about the date from which AFCA will receive complaints from members. PDS documents and updates are being prepared in which clear information must be provided regarding the appropriate authority to complain to from specific dates.

It would be helpful if this date were stated to be 1 November 2018, rather than a date no later than that date.

CORPORATE SUPER ASSOCIATION

Funding for SCT during the transition period

It would be helpful if funding were provided sufficient to enable the SCT to clear the backlog of complaints which has been gathering in the interim.

Return of disputes to the Trustee in the first instance

This is a new additional process that is being proposed for the handling of superannuation disputes that are submitted for external review. Draft RG 139 at paragraphs 170-180 proposes that for any matter that reaches AFCA there should be an automatic "refer back" at first instance to the financial firm (trustee), of all complaints except death benefit complaints, as recommended by the Ramsay Review (*Final Report*, page 193).

This automatic referral proposal does not have specific legislative backing in the AFCA Act. AFCA will, however, be administratively bound by the final RG 139, although the RG will not have the force of law.

The discussion in the Final Report of the Ramsay Review supported the conclusion (page 193) that

Tracking by EDR bodies of disputes referred back to IDR encourages early resolution of disputes and helps to identify systemic issues in IDR

We do not dispute this approach of tracking disputes and monitoring complaints handling will yield useful data regarding processes in particular funds and will enable more informed approach and feedback.

Nevertheless, we suggest that, following classification of claims into those that have undergone previous internal review and those that have not, it would be more efficient to refer back only those that have not undergone an internal review. Paragraph 101(1)(b) of the SIS Act requires a trustee review after receipt of the complaint, and this will either have been done, or appropriate action followed, before the complaint reaches AFCA. To introduce this further stage for complaints that have already undergone internal review, without segregation of cases that have already had an internal review, appears to us to introduce further delays to the process. It is time consuming and not cost effective for our members.

In the common instance of a TPD claim, there is no change to the facts on which the trustee made its decision so how can a trustee arrive at a different determination? If new evidence has come to light since responding to a complaint, the trustee would consider this in any event.

As a method of screening complaints into those that have previously undergone an internal review, we suggest that the complaints form submitted to AFCA could have a question on whether the matter has already been raised with the trustee in the first instance.

Yours sincerely



Mark N Cerché
Chairman
Corporate Superannuation Association