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Cooper Review – phase 1

The Super System Review (Cooper Review) is examining Australia's superannuation system in three phases:

- ↳ Phase One: Governance;
- ↳ Phase Two: Operation and Efficiency; and
- ↳ Phase Three: Structure

Submissions on the Cooper Review's first issues paper on the governance of superannuation funds released in late August were due back on 25 August 2009.

Preliminary recommendations will be released early December 2009.

Some of the key issues raised in the paper include:

Trustees

- ↳ Would the full or partial codification of duties to act in good faith, avoid and/or disclose real or apparent conflict of interest and not seek personal profit have a significant impact on trustee governance and the priorities given to various aspects of their operations?
- ↳ Are trustees adequately equipped to do their jobs?
- ↳ How is trustee performance measured?
- ↳ Is trustee behaviour adversely affected by their apprehension of personal liability?
- ↳ Should trustees be members of a fund of which they are a trustee so their interests are more fully aligned?
- ↳ What should the rules be around qualifications, length of time in office, multiple trusteeships and selection processes for trustees?

Government and regulatory

- ↳ Should the Government regulate other policy objectives such as sustainability, corporate social responsibility and managing climate change / be able to influence funds to make particular investments, etc.
- ↳ Should the Australian Prudential Regulation Authority (APRA) have a prudential standard-making power or a power to give directions in relation to superannuation?
- ↳ Are the sanctions applying to trustees' obligations appropriate?

Accountability to members

- Are super funds, individually or as a class, sufficiently accountable to members?
- Should members have a say on who represents their interests in corporate board rooms?
- How much responsibility should be placed on trustees for individual investment strategies when members make investment choices either with or without separate advice?

Operational

- What can be done to encourage long-term horizon as far as investment is concerned, as opposed to short-termism?
- Should the Government impose restrictions to enforce more diversification to other asset classes or allow trustees to decide?
- Should there be clearer rules about how far out of balance familiar types of portfolios (eg balanced, growth) can go before some action has to be taken?
- Are the current exceptions to the borrowing prohibition suitable?
- Should trustees be more involved in the taxation of the underlying portfolio?

Please refer to the paper for further details: http://www.supersystemreview.gov.au/content/downloads/governance_issues_paper/governance_issues_paper.pdf.

In its submission, the Association of the Superannuation Funds of Australia has suggested the following 10 key improvements to the superannuation system for consideration by the Cooper Review:

- Minimum competency standards and ongoing compulsory professional development (CPD) requirements for trustees (including SMSF trustees, but at a different level).
- Governance policy on trustee composition, selection, removal, tenure and succession planning.
- Independent directors should not be a requirement but any impediments to appointing independent trustees should be removed.
- Conflict of Interest rules, including tests, such as member perception, impact on board discussions and unfair advantage to third parties.
- No regulatory direction or prescription on investments.
- Consolidation of the industry: size should not matter.
- Rationalisation of legacy products: removal of legal constraints adverse tax consequences.
- Capital Gain Tax (CGT) relief on all fund mergers.
- Superannuation Industry Supervision (SIS) legislation should be amended to reflect the different duties that trustees may have in relation to different sub-trusts or groups of members as well as different product structures.
- A single regulator for the entire financial services industry and, ideally, one centralised piece of legislation for superannuation.

Source

Australian Government, Review into the Governance, Efficiency, Structure and Operation of Australia's Superannuation System, Phase 1 Governance.

http://www.supersystemreview.gov.au/content/downloads/governance_issues_paper/governance_issues_paper.pdf

Association of the Superannuation Funds of Australia, ASFA submission to the Cooper Super System Review: Phase One: Governance, 19 November 2009.

Cooper Review - Phase 2

The government has released for public consultation a paper dealing with the operation and efficiency of Australia's superannuation system, being phase two of the Cooper Review.

The paper notes that efficiency operates on different levels. For example, from a government's perspective, an efficient superannuation system is one that imposes the least demand on its fiscal position via the aged pension and its regulatory and taxation systems, while still achieving the government's policy objectives.

For most members, efficiency means the highest end benefit for a given level of contributions during the accumulation phase.

However, the review panel considers there is much greater scope to improve system efficiency overall by refining and streamlining operational processes and reducing costs and leakages.

The paper indicates that efficiency can be achieved by reducing costs and/or lower profit margins. The majority of the issues raised in the paper go to the first method.

Some of the key issues raised in the paper include:

Technology

- Could the Australian superannuation system use technology more to improve efficiencies and deliver lower costs (i.e. centralised clearing system).
- Can super funds provide unit pricing on a fortnightly basis to reduce costs?
- Could the Government help develop a common system for super payment routes?

Default funds and default investment options

- How employers can best chose a default fund?
- Should there be a small number of default funds (or even a single simply designed, low cost and easy to understand default fund) (i.e. a Government-operated national default fund)?
- Should a lifecycle fund be mandated as a default investment option?
- Should there be a prescribed asset allocations of the default investment option?
- Should there be a limit on the number of investment options that default funds can offer?

Regulation

- Can the cost-effectiveness and usefulness of regulation in super be assessed?

Inactive accounts, lost members and ERF

- Is there any reason to have more than one eligible rollover fund (ERF) nationally?
- Can balances rolled into ERF be transferred to the Consolidated revenue Fund?
- Should the Government provide a single, low-cost ERF?
- Should qualitative criteria be set up for ERFs?

Participants

- Can Superannuation Guarantee (SG) contributions be aligned with normal payroll activity to reduce administrative costs?
- Should employers remain involved in superannuation management?
- Can something be implemented so that employers supply better quality information?
- Is s68A of the SIS Act need to be strengthened?
- Should salary-sacrificed contributions be required to be contributed to a super fund in the same period as after-tax contributions under s64 of the SIS Act?
- Should it be mandatory for APRA-regulated funds to have EFT facility?

Investment managers

- Do trustees concentrate too heavily on strategies that rely on active trading of investments thereby incurring additional costs and taxes that ultimately reduce the returns to members?
- Should passive management styles play more of a role in super or is there a justification for using active managers widely?

Administrators

- Do administrators need to be more directly regulated?
- Should there be more reliable proof of verifying the identity of members?
- How could Tax File Numbers be made more robust?
- Would a 'user pays' system of administration be fairer to members and administrators so that those who make more demands on the administration system pay more?
- Are penalty fees for administrator under-performance appropriate?

The value chain

- Are there any observation about fee levels across the industry that would assist the review?
- long-term average investment returns achieved for members;
- overall services provided and value added to members;
- structural, regulatory or other factors that unnecessarily add to costs;
- the complexity of the products and services offered and the way fees are charged and disclosed;
- the level of price competition; and
- are there any invisible costs?

Information

- Should APRA remain the sole collector and publisher of official super data?
- Should the scope of data be extended to include sub-fund data for example?
- Is the investment performance data about super funds currently published by APRA adequate?
- Should fund trustees continue to pay performance fees to fund managers based on pre-tax performance?

Information given to members

- Would optional Product Disclosure Statements make more sense?
- What is the most cost effective way to get advice to consumers?
- Should advisers be required to have higher qualifications?
- Should fees and charges be continually disclosed to members, including entry price, annual member account costs, annual asset level costs, exit fees?
- Would a high-quality Government website solely dedicate to providing information on super be useful? (Trustees could have links to such website which would make disclosure cheaper and easier).
- Would it be feasible to require all funds to display on their websites and disclosure documents a simple traffic light symbol or some other easy to understand graphic, intended to highlight how the fund compared against its peers on fees and charges?
- Are annual reports useful to members or could they be phased out with the information made available on the fund's website or another internet site?
- Should funds disclose the level of remuneration paid to their directors and executives and service providers?
- Can funds communicate electronically with members and request members to pay for paper communications?
- Are calculators useful?
- Should audited accounts be made available for members?
- What if, each year, funds were required to send members a bill for next year's estimated fees; effectively a renewal notice similar to those sent by insurers?

Direct costs

- ⊘ Is there a basis for controlling fees in super in Australia (i.e. KiwiSaver model in New Zealand)?
- ⊘ Would factory gate pricing help in super?
- ⊘ Should trustees be allowed to pay trailing commissions in respect of employer SG contributions?
- ⊘ Is it necessary to charge a buy spread on all contributions to a super fund?
- ⊘ Should trustees be able, unilaterally, to move members out of an employer plan to a personal plan with higher fees?
- ⊘ If a member is in a default fund, is it appropriate that the same level of fees and commissions are charged in respect of that member in contrast to a member who chose that fund on advice?
- ⊘ Potential to simplify fees by eliminating rebates

Performance fees

- ⊘ Could they be charged on an after-tax basis?

Inefficient behaviour

- ⊘ Could it lead to better outcomes for members if trustees were required to explain clearly and on a regular basis what their investment beliefs were, the objectives of each investment option offered and the broad objectives of the fund itself?

Competition

- ⊘ Do the advantages of choice of fund outweigh the costs to members and employers?
- ⊘ Would it be more cost-effective for more services to be performed in-house?
- ⊘ Does daily unit pricing drive short-termism?

Achieving economies of scale?

- ⊘ Have there been impediments to the further consolidation of superannuation funds in Australia?

Others

- ⊘ Could current arrangements surrounding payment of death benefits be simplified to reduce the discretion of trustees, and hence remove a source of disputes within the industry? For example, would it be useful to mandate that, in the absence of a binding death benefit nomination, any death benefit would simply be paid to the deceased member's estate?
- ⊘ Can compliance with various benefit payment timeframes be made more consistent?

Also the Review is interested in whether linking super to a contestable financial product market is in the long-term financial interests of members.

Interested parties are invited to make submissions on phase two of the review by **14 December 2009**.

It is anticipated that preliminary recommendations will be released in March to April 2010.

Please refer to the paper for further details: http://www.supersystemreview.gov.au/content/downloads/operation_efficiency_issues_paper/Phase_Two_Operation_and_Efficiency_Issues_Paper.pdf.

Source

Australian Government, Review into the Governance, Efficiency, Structure and Operation of Australia's Superannuation System, Phase 2 Operation and Efficiency.

http://www.supersystemreview.gov.au/content/downloads/operation_efficiency_issues_paper/Phase_Two_Operation_and_Efficiency_Issues_Paper.pdf.



FPA fee based remuneration model

The Financial Planning Association (FPA) has confirmed that, from July 1 2012, fee based remuneration becomes the standard model for financial planning advice.

This means that the profession will be encouraged to transition away from commission paid advice.

The FPA had previously explained that under the commission-based system, on-going services provided to a consumer by a financial planner are paid for by the product provider, such as a super fund, to the financial planner through their licensee, for recommending the product to the consumer.

Commissions are not paid directly by the client and cannot be switched off. They are paid until the client withdraws their funds or ceases life insurance cover. Commissions also bundle charges and make it difficult for clients to understand what component of the commission relates to advice, product, or administration.

Under the fee-for-service or direct-charge model the consumer is billed directly by the financial planner based on an agreement with the client. The product provider might be required to facilitate or execute the payment on behalf of the client, but this becomes an administrative issue rather than one of perceived influence or control.

The FPA indicates that risk products are not included in the new remuneration policy at this point in time, and neither are rebates and related payments, which are product directed payments to Australian Financial Services Licensees. However the FPA has set up committees to look into this and will report on this issue early 2010.

The FPA has also established a transition committee to assist members with guidelines, tools and information to ensure a smooth transition for every practice.

FPA members will be required to transition away from commission-based remuneration by 2012 but the FPA encourages members to adopt these remuneration practices as soon as possible.

Source

Financial Planning Association, FPA Board approves remuneration policy, 23 October 2009.

http://www.fpa.asn.au/FPA_LatestNews.aspx?EventGroup=1&EventItem=268.

aonmastertrust.com.au

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