AUSTRALIAN INSTITUTE of SUPERANNUATION TRUSTEES

SHAPING PROFIT-TO-MEMBER SUPER

Tuesday October 10, 2017

Opening statement by Eva Scheerlinck, Chief Executive Officer, Australian Institute of Superannuation Trustees to Senate Economics Legislation Committee on Superannuation Laws Amendment *(Strengthening Trustee Arrangements)* Bill 2017 and Improving Accountability and Member Outcomes in Superannuation Measures No. 1 & No. 2 Bill 2017

Thank you for the opportunity to present to the committee today. As the peak representative body for the profit-to-member industry, public sector and corporate funds, AIST is committed to the highest standard of governance in superannuation and to a culture of continuous improvement of governance practices. However, in relation to the strengthening trustee arrangements bill, AIST has a number of concerns.

AIST believes that, prior to the development of any public policy reform, it's important to first consider the evidence base and to identify any existing policy failures which require the change. In prescribing a new governance model for super funds, the government has, in AIST's opinion, not done this. Specifically with regard to profit-to-member funds, it has not presented any empirical evidence that the existing representative governance model is failing members or indeed the wider Australian community.

Profit-to-member funds were jointly created by unions and employers to serve working Australians, and they have been run successfully for more than 25 years. They have invested for the long term, insulated the Australian economy and invested heavily in Australia's infrastructure. Over this time, profit-to-member funds have outperformed their retail rivals, in the lead-up to the global financial crisis, during the downturn and in the subsequent years. No profit-to-member super fund has needed to be bailed out and there have been no bank-like scandals.

The proposals in this bill will dismantle the governance structure of the most successful, highest performing sector in the superannuation industry, causing unnecessary and costly disruption at a time when all super funds are having to deal with a raft of other regulatory changes and policy proposals.

Of a particular concern is that the bill assumes that profit-to-member funds do not see the value in independence. To the contrary, the profit-to-member governance model is entrenched with layers of independence, including independence from management, structural independence and the independence safeguards derived from the broader regulatory framework.

AIST believes that the structural independence in the ownership structure of the profit-to-member funds is a driving factor in the sector's clear-out performance. Unlike bank or insurance-owned super funds, profit-to-member funds were not set up to deliver a profit to current shareholders or related parties. Directors of profit-to-member funds serve only one master—the member.

The removal of equal representation from the SIS act is equally concerning to us. The equal representation model of governance has been the cornerstone of member representation and accountability in the superannuation industry for decades. Representation of members and employers on super fund boards ensures a balance in decision-making and a true understanding of the membership base. Most importantly, it aligns the decision-making of the fund's board with the needs of its members. Some of the top pension fund systems in the world feature an equal representation system of governance or, at a minimum, member representation. Removing equal representation from the legislative books will remove this guaranteed member voice.

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In prescribing a quota of independence to the boards of super funds, the government has argued that this will bring additional skills to the boards of profit-to-member funds. But independence per se has nothing to do with skills. Moreover, no evidence has been presented that equal representation precludes a board from being adequately skilled. Indeed, we believe that equal representation allows funds to draw directors from all walks of life and from a diverse talent pool. Currently, there are nearly 100 separate union and employer organisations involved in director appointments across our sector, and we acknowledge that some of our member funds appointed non-representative directors or non-aligned directors to fill any skill gaps. AIST supports profit-to-member funds having the flexibility to appoint up to one-third independent directors, noting that when funds do this they typically do so to fill whole-of-board skill gap and not for reasons of independence per se.

The bill takes a very narrow view of governance, we believe, and that is certainly reinforced by many of the recent scandals involving banks. But a host of factors contribute to good governance, including the collective culture of the board and the ethics of individual directors.

In recognition of this and our commitment to a culture of continuous improvement in governance practices, AIST this year launched a governance code that will be mandatory for more than 50 AIST member funds from 1 July 2018. This builds on a voluntary set of guidelines that we published first in 2011. The Code and accompanying guidance are designed to firmly position profit-to-member super funds at the leading edge of international best practice. The Code was developed separately but in tandem with the Fraser review and follows a commitment made by AIST and Industry Super Australia to the Australian Senate at the end of 2015.

The code mirrors ASX corporate governance principles, applying them obviously in the superannuation context, to reflect an industry that is structured and regulated differently to listed companies. The principles-based code contains 21 requirements that funds must report against annually on an 'if not, why not' basis. These requirements cover member engagement opportunities, equal director voting rights, strong risk culture, board renewal, chair appointment, disclosure, transparency, diversity and remuneration. Member compliance with the code will be monitored by an independent body which can make recommendations to AIST on areas where further guidance may be warranted.

We believe that the profit-to-member governance model, in combination with general trust law, statutory law, APRA prudential standards and the new AIST governance code, provides a robust, independent framework that protects members' best interests, and we are confident that we will continue to deliver superior retirement outcomes for members. Interfering with the super fund's owner's rights in how they run their fund by mandating how their boards are structured is not something that the government does for listed companies nor, indeed, any other APRA-regulated financial institution. This bill is not supported by any evidence. It has a narrow focus on what makes for good governance in super and, most worryingly, it could have a negative impact on members' retirement outcomes.

Thank you for the opportunity to present to the Committee.

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AIST is the peak industry body for the $700 billion profit-to-member super sector which includes industry, corporate and public sector funds.