

Australian Institute of Superannuation Trustees



15 April 2016

The Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Email: economics.sen@aph.gov.au

Dear Dr Dermody,

Re: Senate Economics References Committee Inquiry: Scrutiny of Financial Advice – Additional matters relating to the life insurance industry

In brief:

AIST believes that the recent high profile failures in the insurance sector has come about due to differing expectations. AIST supports efforts to resolve this, but further notes that the many changes to policies, both at a macro/legislative level as well as at policy levels can only confuse consumers. AIST supports a code of conduct but stresses that this must be independently administered and resourced, as well as appropriately user tested. AIST also calls for a ban on commissions.

AIST thanks the Committee for the additional opportunity to submit to this inquiry.

We have been an interested participant in matters relating to life insurance, especially where it relates to policies held for the benefit of superannuation fund members. We have noted the increased focus on insurance in superannuation in recent years, and have been a key participant in recent major issues involving the industry, including changes to the definition of Total and Permanent Disability (TPD), changes to tax deductibility of policies held by superannuation funds, increased policy lapse and claims rates, the increasing involvement in the industry of the plaintiff law industry and recent coverage in the media such as the *4 Corners* story of a few weeks ago.

Although the terms of reference which form this part of the Inquiry are broad, AIST does not plan to respond to all issues raised in the terms of reference.

Industry reform and oversight

AIST believes that failures that arise with regards to life insurance arise due to many factors. In recent times, a prominent issue has been with the expectations of what consumers can claim for

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under their policies. We have seen a number of changes in recent times, and these changes cannot be helpful to consumers.

A good example of this was changes made to the *Superannuation Industry (Supervision) Regulations 1994* (the “SIS Regulations”) in 2014 to remove the ability for superannuation funds to provide disability benefits unless the insured event is consistent with a condition of release as specified in schedule 1 of the *Superannuation Industry (Supervision) Regulations 1994*. Other examples may include *ex-poste* changes made to policies covering existing members as a result of funds changing insurers or insurance contracts. In all cases, there still needs to be an assurance to consumers that they know what they are getting in return for a premium paid.

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We believe that any discussion of reform to the industry and its oversight must consider the consumers who pay for insurance themselves. It is not enough for an insurance contract to specify the grounds on which the policies may pay claims, unless these grounds are well understood by those who are insured. It should also be the case that in addition to the events that can be claimed, the steps involved in making a claim must also be well understood. We would support a ‘plain English’ requirement where terms used in insurance contracts are extensively tested with consumers prior to being cleared for use in insurance contracts.

Life insurance code of conduct

We have noted the increased activity in industry groups, professional associations and others associated with the industry with respect to life insurance codes of conduct, including those currently being drafted by the Financial Services Council and the Australian Lawyers Alliance. Our concerns to date have been many, including user testing, the obligations on parties including consumers and the role of trustees.

However, a key concern that we have is that there are multiple codes appearing where there should only be one. Consumers should not have to undertake due diligence on their provider, advisers or other intermediaries (including trustees) in order to see which code they are signed up to, particularly if there are differences between the codes.

AIST supports clear and transparent guidance and disclosure for consumers and providers of life insurance and have consider there to be a need for a code. We believe that a code of conduct would go a significant distance to solving the problems created by differing expectations. We also believe that the General Insurance Code of Practice, recently developed by the Insurance Council of Australia, provides a document that would be a good starting position when developing a code.

AIST supports a code that has independent oversight and enforcement, such as that provided by an independently resourced and funded code Committee. A principles-based code, written in plain English with timeframes set and supported by all parties to the code would provide



enormous benefit to all involved in life insurance claims, whether inside or outside of superannuation. We also consider that there needs to be a greater focus on the role of trustees in a code of conduct.

We recommend that the development of such a code involve user testing and feedback from consumers, advisers and other consumer facing financial services professionals, as well as superannuation trustees and the life insurance industry itself.

The role of the Australian Securities & Investments Commission (ASIC)

AIST agrees that the development of a code of conduct must involve the financial services regulator, and this involvement should commence during the development stage and involve their oversight and approval.

AIST also notes that consumer protection provisions built into Australia's financial services law are administered by ASIC, meaning that the powers available to police misleading, deceptive and unconscionable conduct can be easily re-tooled to ensure that expectations are better managed.

However, we note that \$120 million has been removed from ASIC's budget in recent times. We believe that if Government believes that it is ASIC's place to serve their role as a regulator in this environment, a more appropriate approach to regulator resourcing needs to be committed to by the Government.

Related matters

AIST believes that a key reason for differing expectations between consumers and insurers is the continued existence of life insurance commissions. Despite the many reviews that have recommended these be abolished, we point to the continued potential for consumers to be mis-sold products due to conflicted remuneration.

The problems caused by the continued availability of commissions on the sale of insurance has been widely documented and we take this opportunity to recommend that, in the interests of more appropriate insurance coverage for superannuation fund members, that the Committee consider once again recommending that these be banned.

We note that the *Corporations Amendment (Life Insurance Remuneration Arrangements) Bill 2016*, presently before Parliament, is a step in the right direction. However, we believe that this conflict cannot be resolved until advisers' financial incentives are sourced wholly from consumers, and not from product manufacturers. AIST recommends that the Committee recommend that the *Corporations Amendment (Life Insurance Remuneration Arrangements) Bill* not be passed.

Australian Institute of Superannuation Trustees



If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on [redacted] or at [redacted].

Yours sincerely,

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Tom Garcia
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$650 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

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