

CORPORATE SUPER ASSOCIATION

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Ms Kelly Fung
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Dear Ms Youl

SUBMISSION: ONLINE DISCLOSURE CONSULTATION PAPER CP 121

The Corporate Superannuation Association appreciates the opportunity to comment on the above Paper issued in October 2009.

Background – Corporate Superannuation Association

Established in 1997, the Association is the representative body for large corporate superannuation funds and their employer-sponsors. The Association represents a total of 46 funds controlling 39 billion dollars of member funds. In general, these funds are sponsored by corporate employer sponsors with membership restricted to employees from the same holding company group, but we also include in our membership a few multi-employer funds with similar employer involvement and focus.

Our funds typically are established without shareholder interests in the governing body, and no profit is derived from the operations of our funds. This also means that any cost of compliance increase has a direct impact on members' benefits. The funds are run as mutual entities, where the decisions are the responsibility of a trustee board. The board provides equal representation for employer and employee interests.

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Our views on online disclosure

We refer to our previous submission dated April 2008 relating to Consultation Paper CP 93. In that submission we raised concerns that where certain transactions and events were concerned, members and trustees would be subject to particular risks in the event of failure of electronic delivery. We advocated a default delivery method by mail for these reports or information, with a requirement that the member notify the trustee and sign a waiver absolving the trustee from responsibility in the event of non-delivery.

The communications which gave rise to the above concerns related to:

- Ongoing disclosure of material changes and significant events (s 1017B),
- Member specific information such as periodic account statements (s 1017D), and
- Confirmation of transactions (s 1017F).

Section 1017B

We note that, under current law, the fund must be satisfied on reasonable grounds that the member or agent has received a copy of a significant event notification. The proposed good practice guidance indicates ASIC's interpretation of this requirement, in the electronic disclosure context. This is helpful to trustees.

Section 1017D

We note that the law has changed subsequently through the insertion of Corporations Regulation 7.9.75BA which specifically states that a fund trustee may make annual fund information available to a member on a website, subject to following appropriate procedures for notifying the member and subject to a requirement to provide paper copies if requested. Given that the law is now explicit on this point and there is no requirement to obtain the member's consent in the first instance, we believe that the trustee is adequately protected in relation to the risks advised above.

Section 1017F

We note the provisions permitting acknowledgement by standing facility without prior consent if the client is informed and does not object.

We believe that the above provisions of the law, in conjunction with ASIC's interpretation, provide protection to the trustee who complies with the law.

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Where our members do not believe that electronic disclosure will meet the needs of their members, we accept that it is open to those funds to provide hard copies of documents through postal delivery.

Provision of PDS

We are comfortable with ASIC's approach outlined in CP 121 including the proposed relief in relation to PDS and the proposed good practice guideline.

Yours faithfully



Mark N Cerché
Chairman
Corporate Superannuation Association