

CORPORATE SUPERANNUATION ASSOCIATION Inc.

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Ms Heidi Richards
General Manager, Policy Development
Australian Prudential Regulation Authority
GPO Box 9836
SYDNEY NSW 2001

Dear Ms Richards

DRAFT SPG 227: SUCCESSOR FUND TRANSFERS

We refer to the invitation to comment on the above issued on 24 November 2016.

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 22 funds controlling \$72 billion in member funds, held in a total of some 560,000 individual accounts. Of these funds, 12 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 \$49 billion to \$64 million as at 30 June 2015. 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.

Successor fund transfers and wind-ups

It is helpful for trustees to have guidance in this area.

We have comments on paragraphs 21 to 27 of the current draft guidance, relating to 'equivalent rights'.

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'Right'

It is suggested at paragraph 22 that a 'right' is a legally enforceable right, and examples are provided. However, the examples are generic and only seem to consider 'legally enforceable' as applied by the SIS legislation and Corporations Act while ignoring the rights of members under the trust deed.

There are many rights in a trust deed that are legally enforceable and should be considered in the context of 'equivalent rights'. For example, benefit design or the calculation of retirement benefits. Complicated or grandfathered entitlements may also need to be considered as rights. We acknowledge that where a benefit is dependent on the application of a discretionary rule, the benefit would not need to be replicated under 'equivalency' but would be addressed under the 'best interest' test. We believe that the Guide should acknowledge, and provide examples of non-discretionary rights under trust deeds.

We support the assessment and review process proposed in paragraph 24. However, paragraph 25 appears to qualify this, by indicating that a line-by-line comparison is not required and that a 'bundle of rights' approach is acceptable. Paragraph 26 goes further to suggest that equivalent rights could be considered on the basis of very broad groups of members.

However, we are concerned that, whilst in a number of funds this will be acceptable because of uniformity of benefit design, this approach will not work in a number of contexts where there is a number of variations in entitlement. A 'bundle of rights' approach may disadvantage members of a sub-group compared to another sub-group of the same broad grouping. The trustee will need to consider carefully whether the approach mentioned in paragraph 26 will be appropriate in the context of the particular fund.

We are happy to discuss further as required.

Yours sincerely



Mark N Cerché
Chairman
Corporate Superannuation Association