

25 May 2021

Director
Retirement Income Policy Division
Treasury
Langton Cres
Parkes ACT 260

via email: superannuation@treasury.gov.au

Submission in response to *Your Future, Your Super* Regulations and associated measures

Dear Sir / Madam,

The Australian Investment Council is pleased to present its submission to you as part of the consultation process on the proposed *Your Future, Your Super* Regulations and associated measures released in April 2021.

The Council has been actively engaged in the various phases of consultation on the proposed *Your Future, Your Super* reforms because the implications of these changes on the way in which superannuation funds develop and implement their investment strategies will have a significant bearing on the flow of private capital into Australian businesses over the long-term.

Private capital investment has played a central role in the growth and expansion of thousands of businesses and represents a multi-billion-dollar contribution to the Australian economy each year. Our members are the standard-bearers of professional investment and include: private equity, venture capital and private credit funds, alongside institutional investors such as superannuation and sovereign wealth funds, as well as leading financial, legal and operational advisers. Our members include both Australian domestic and offshore-based firms.

Investments made by private capital firms into Australian businesses directly results in the creation of new jobs and supports growth in economic output across all sectors of the market. Investments made by Australia's private capital industry represents 2.6 per cent of Australia's GDP output each year and is responsible for creating around 1 in 9 new Australian jobs according to independent analysis by Deloitte Access Economics.¹

Investment into unlisted asset strategies such as private equity, venture and private credit is underpinned by the role that investment firms play in driving innovation and industry modernisation – attributes that we all agree are critically important to Australia's economy recovery from the COVID-19 induced downturn. With the ongoing health and economic challenges facing Australia, the capacity for the private capital industry to provide superior returns and risk diversification, while continuing to support Australia's next generation of leading companies is arguably more important than ever.

¹ Deloitte Access Economics (2018) [Private Equity: Growth and Innovation](#), April



Performance benchmarking reforms

The Council has previously made submissions to the Government, Treasury and the recent Parliamentary Inquiry into the reforms setting out our position on the proposal to require superfunds to benchmark the performance of unlisted private capital investments against listed equities.

The industry's position remains consistent with the previous submissions we have put forward in our submission dated 24 December 2020, and subsequently.

However, it will be critically important that we adopt a real-time approach to monitoring and review of the market implications of the performance benchmarking regime, once it is implemented, in order to determine:

- the extent to which the regime is significantly altering the investment strategy of superfunds and their exposures to risk;
- the effect of the regime on decisions to invest into private capital strategies, and if there is a distortionary effect on the availability of capital to support the growth and expansion of businesses, and the creation of new jobs within those Australian businesses, and
- the effectiveness of the regime in delivering on the Government's stated policy objectives in respect of the overall reform package – especially given there are many aspects of the reform package that have inherent links and interdependencies.

We have consistently argued that there ought to be a public commitment by the Government that, once implemented, the market implications of the Your Future, Your Super reform package will be reviewed in a coordinated and structured way within both a short-term and long-term context. It may appropriate to consider a post-implementation review within say, 12 months to 18 months, and a further review within four to five years. We feel that this approach will help to ensure that the Government's policy objectives are ultimately realised, and that members of superfunds benefit from the introduction of these proposed reforms.

Portfolio holdings disclosure framework changes

The Council has been a long-term contributor to various consultation processes around the design and implementation of the portfolio holdings disclosure framework under the Corporations Law, dating all the way back to the first policy announcements made by government in 2012.

As we have maintained throughout, we are entirely supportive of reforms that seek to improve transparency and disclosure to provide meaningful and real benefits to the intended end-users of this information, being the members of superfunds.

The changes proposed in the draft Regulations appear to create new uncertainties in respect of the obligations for disclosure and reporting of investments in certain circumstances. It is vitally important, in our view, that clarity of the obligations imposed on superfunds is communicated in a clear and concise manner, to ensure that inadvertent inconsistencies in reporting and disclosure do not arise in the marketplace.

It is also important to reiterate that, for our industry, there will be many scenarios in which the disclosure of certain information in relation to asset holdings and valuation will likely be detrimental to the interests of superfund members. This is particularly the case in circumstances where the underlying asset that is the subject of the disclosure may be in the process of being sold in a commercial competitive auction process, for example. It is for this reason that the Council has previously been an advocate for the adoption of a (up to) five percent exclusion from disclosure for certain asset holdings within specific investment options.

Recognising the Government's desire to abandon the previous policy position which permitted a five percent exclusion within investment options, the Council is supportive of an alternative approach which would require the disclosure of information about the extent of holding in an underlying investee company where that is



required under the framework. In particular, the Council recommends that the framework be amended to require that the value of the combined holdings within private capital strategies be reported as an aggregated value, to avoid the disclosure of commercially sensitive information about the individual market valuation of certain investee company interests.

Adopting such an approach will ultimately lead to better overall outcomes for superfund members, who will benefit from securing the maximum sale value for investment returns generated by funds on their behalf.

Additionally, requiring the disclosure of certain commercially sensitive information in this manner may result in a contraction in the capacity for superfunds to access top-performing investment managers around the world, who would view the requirement to report and disclose such information as being counterproductive to their efforts to secure the maximum sale price on an individual investment. Were this to eventuate and superfunds experienced greater difficulty in accessing top-performing managers around the world, the portfolio holdings disclosure regime would be said to have ultimately led to member outcomes that are inconsistent with the policy intent of the reforms in this area.

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If you would like to discuss any of the points we have made in this submission please do not hesitate to contact me directly via email at ceo@aic.co or on the phone at 02 8243 7000.

Yours sincerely

Yasser El-Ansary
Chief Executive