ACTU congress 2009

# Future of Work

# Retirement Incomes, Superannuation and Workers' Capital Policy

## Introduction

1. This policy confirms the policies adopted by Congress in previous years, updating it to reflect developments since 2006, and to reflect the current market environment.

## The Current Market Environment

2. Congress affirms its support for a retirement income system based on three pillars: the aged pension, compulsory savings, and voluntary savings. In particular Congress restates its commitment to Australia's system of compulsory retirement savings. The Superannuation Guarantee (SG) has been the single most effective measure to address wealth inequality in Australia. Recent ABS data confirms balances in superannuation funds are the largest financial asset held by households.

3. Volatile periods and market downturns are part of the nature of investment markets. Congress notes that superannuation has performed well over the long-term, notwithstanding the poor performance of the markets over the last 18 months.

4. Congress supports a temporary relaxation of access to preserved superannuation to assist households in financial distress and in order to meet mortgage repayment. However we note that this measure comes at the expense of adequate retirement incomes.

5. Congress opposes suggestions to suspend or temporarily reduce compulsory superannuation contributions in order to temporarily stimulate household consumption.

## Adequacy

6. Congress welcomes the Rudd Government's renewed policy focus on the adequacy of retirement incomes. The Review of the Australian Tax System and the Harmer Review of pensions must result in a system that ensures that all Australians can enjoy adequate and secure retirement incomes.

7. It is widely acknowledged that compulsory savings rate of 9 per cent SG is inadequate to fund the retirement incomes of low and middle income earners, particularly those whose working lifetime commenced prior to the introduction of the SG system and whose benefit in retirement does not reflect system maturity. Even at maturity the system will be inadequate for sections of workforce, particularly women, casuals and part time employees, who suffer low contribution amounts and disrupted periods of saving. This is particularly so as the full 9 per cent does not go into superannuation savings. After tax, fee, commissions and insurance are deducted, the figure is closer to 7.5 per cent.

8. Retirement incomes policy must also acknowledge the significant role that home ownership has played in providing financial security in retirement. Declining home ownership will place greater pressure on other savings. This, coupled with the high costs of health care associated with living longer, demand fresh analysis of the adequacy and equity of the current regime.

9. A clear definition of an adequate retirement income is required. Congress endorses the adoption of an "adequacy range" to inform public policy. Government support and incentives should be targeted to ensure a "modest but adequate" budget standard as the floor, while "comfortable/affluent" standard should be the point at which public incentives and support are withdrawn. This definition should inform policy on all three pillars.

10. The ACTU believes that employees, employers and government will need to make a contribution to providing a sustainable adequate retirement incomes strategy by:

    a) Increasing the base rate of singles age pension;

    b) Replacing the flat contributions tax on superannuation with a progressive contributions tax;

    c) Increasing superannuation contributions in the medium term to at least 15 per cent though bargaining and increasing the SGC rate. This should be phased in tranches of 1 per cent over each of the 6 years 2010 to 2015;

d) Reducing leakage from the system by requiring the disclosure of all fees and banning of commissions on SG retirement savings and income products;

e) Closing the gaps in the coverage of the superannuation guarantee by:

   i) Extending SG entitlements to all employees regardless of age, or minimum earnings;

   ii) Ensuring contractors who are eligible for SG receive contributions and extending the SG framework to cover self-employed workers; and

   iii) Requiring the SG be paid while employees are on paid parental leave.

f) Supplementing the co-contribution with targeted government contributions, including a government funded maternity-linked contribution (a super baby bonus).

11. Congress rejects the treatment of super as a source of tax revenue and reaffirms the purpose of superannuation policy as a national savings plan for workers in retirement. Congress is opposed to any attempt to increase the preservation age to claim superannuation benefits and to increase taxation on super that would be a disincentive for savings.

12. The single pension rate, relative to the combined couple rate, needs to be lifted and a new benchmark adopted which:

a) Reflects the increased role of women in the workforce;

b) Eliminates the influence of changing shares of full time and part time jobs; and

c) Eliminates the influence of the business cycle on earnings.

13. Congress supports a new benchmark of 30 per cent of Full Time Adult Average Weekly Ordinary Time Earnings and a single–couple equivalence of 70 per cent. This is a stretch target, which the ACTU believes should be achieved by 2025.

## Equity and Efficiency

14. The retirement incomes system currently does not operate equitably and efficiently. In particular:

a) While most pensioners have low incomes, 5 per cent have private incomes of over $400 a week. Similarly while most pensioners have few assets, it is possible to receive some pension with assets up to around a million dollars;

b) The previous government's Better Super concessions are expensive to the public purse, distributionally regressive, and impact on income tax planning/minimisation, on estate planning and perpetuate intergenerational inequity;

c) The retirement incomes pillars are poorly integrated, with longevity risk borne entirely by the taxpayer; and

d) Aboriginal and Torres Strait Islanders have shorter life expectancy than non aboriginal Australians yet face the same age based barriers to accessing the aged pension and superannuation accounts.

15. A more equitable focus for government support would include:

a) Abolition or reduction of the excessive tax concessions for superannuation at the top end;

b) Better targeting of access to the pension, through a review of the means-testing for assets and deeming returns for certain classes of assets, and means-testing incomes;

c) The introduction of government sponsored life-time annuity product with genuine longevity coverage, payable as a top-up on the age pension rate, accessible by investment of a lump-sum from retirement savings;

d) Introduction of early access to preserved superannuation accounts, retirement and aged pensions for Aboriginal and Torres Strait Islander peoples in recognition of the life expectancy gap.

16. The superannuation system should be administered free from discrimination and operate inclusively for all Australians. Congress welcomes the enactment of legislation conferring equal treatment in superannuation for same sex couples. Congress calls on superannuation trustees, when releasing the funds of a deceased member, to pay appropriate regard to:

a) the diversity of family and dependency arrangements in Australia, and in particular to recognise the kinship structures of Aboriginal and Torres Strait Islander families;

b) the difficulties in accessing formal documentation faced by some family members or dependants: including many Aboriginal and Torres Strait Islander families in regional and remote locations, and refugee families.

## Superannuation Funds

17. The ACTU confirms its longstanding support for industry superannuation funds as offering the best combination of good returns, low fees and effective service to workers and their families. Funds that are not-for-profit, do not pay commissions to financial planners, have lower average fees and have an equal number of employer and employee/union nominated directors of trustee boards, producing superior governance and outcomes are the most appropriate vehicle for the collective provision of superannuation.

### The Collective Provision of Superannuation

18. Congress believes that the economies of scale available through the collective provision of superannuation is in the best interest of workers and their families. This should be achieved by the nomination of not for profit funds as the default for all workplaces, reform of the choice of fund legislation.

19. Employees should be able to access low cost superannuation at their workplace through a requirement that a not-for-profit fund be the default in all workplaces.

20. The nomination of the fund(s) into which an employer may pay where an employee does not choose their fund should not be a decision of individual employers. Congress:

    a) supports greater efforts by unions to ensure the inclusion of industry funds (or appropriate not-for-profit funds such as publics sector or corporate funds) either exclusively, or as the default, in enterprise agreements and employment contracts;

    b) welcomes the decision of the AIRC to nominate default funds in most modern awards, noting that overwhelmingly these are not-for-profit funds;

    c) rejects claims that nomination of funds in modern awards occurred without any transparent and objective criteria. Default funds in awards were originally determined having regard to the AIRC's superannuation principles which favoured jointly controlled multi-employer funds to facilitate portability between employers and the efficiencies and economies of scale that flow from the operation of a small number of funds in an industry; and

    d) supports the ACTU making application, at the appropriate time, for FWA to update these principles prior to any review of default funds in modern awards. The principles should ensure that default funds:

i) have representative trustee structures;

ii) do not pay commissions or ongoing advice fees to intermediaries;

iii) operate within specified regulated fee caps, including entry, exit and ongoing fees;

iv) ensure that when contributions cease the employee remains a member of the default fund until he/she consolidates into a new active fund or is rolled into a suitable Eligible Rollover Fund (ERF);

v) meet prudential regulatory standards and complies with relevant legislation; and

vi) has effective procedures in place for following up arrears in payments.

**Fund Consolidation**

21. Congress notes predictions that fund consolidation will continue along industry or geographic lines. Changes in the structure of the economy, and increasing demands on funds from members, employers and regulators require unions and trustees to consider whether the current structure will serve the best interests of members in the future.

22. The collective provision of superannuation is intended to deliver economies of scale. Recent research confirms that scale is associated with lower average fees and investment costs. Economies of scale can be delivered through both fund consolidation and the use of collective vehicles with common objectives.

23. Fund consolidation must not come at the expense of the specific industry knowledge, understanding, and tailored products and services that characterised smaller funds. Any fund consolidation should cement and build on these attributes in the best interests of members.

24. Congress welcomes the Federal Government's temporary partial relief from capital gains tax to encourage consolidation. Congress calls on the government extend the life and scope of this scheme and to remove other tax and regulatory impediments to fund consolidation.

### A Strong Representative System

25. As the amount held in superannuation funds increases and superannuation becomes more important for the national economy fund governance will inevitably attract greater scrutiny.

26. Congress remains committed to the representative trustee system, including the ability for trade unions organistaions to nominate representative directors to trustee boards. Congress rejects the ongoing attacks on the legitimacy of the trustee structure, noting that all available evidence is that representative trustees have delivered honest, diligent and competent stewardship of the funds under their care.

27. Congress notes the emerging consensus that that good fund governance and socially responsible investments are linked to performance. The ACTU fully supports efforts to ensure superannuation fund directors receive sufficient training and have the resources to perform their duties to the highest standard. Congress encourages union nominated trustees to undertake ongoing trustee development, including through AIST. Responsibility for resourcing directors must be shared between funds and nominating organistaions, unions will ensure that other duties do not impede their capacity to carry out their superannuation responsibilities. Good fund governance also includes disclosure of directors' and senior executive remuneration.

## Fees and Commissions

### Fees

28. There is increasing recognition of the need to focus on the effect of fees and other "leakage" on the system generally, as well as on an individual's account balances. APRA research confirms that the principle determinant of industry funds' out performance compared to retail funds in average net return, are the difference in expenses and taxes, both explicit and embedded.

### Financial literacy, commissions and financial advice

29. The regulation of financial advice should ensure consumers can obtain informed and professional advice. Under the current model consumers face the choice of up front fees which deter many workers from obtaining any advice, or commission based advice which is based upon a conflict of interest.

30. Congress affirms the ACTU's longstanding opposition of the payment of commissions on SG compulsory contributions. We reinforce our view that fee disclosure is an inadequate response to commission selling.

31. Congress calls for the prohibition of commissions on all SG payments, and the imposition of a requirement that financial advisors be obliged, when providing advice, to give advice which is in their client's best interests.

32. Congress notes that choice of fund and member investment choice increase the risk of poor decision making where employees generally have little understanding of superannuation and low levels of financial literacy.

33. The current investment climate has seen many members actively switching investment options for the first time, and the Government's planned contributions clearing house may boost the use of choice of fund.

34. The regulatory framework must allow superannuation funds to offer reliable "within product" advice to their members, including investment choice, insurance options and the effect of additional contributions on account balances at retirement.

## Superannuation Investment and Workers' Capital

### Productive and Sustainable Investment for the Future

35. Subject always to meeting appropriate risks and returns within a fund's portfolio Congress supports fund investment in strategic assets that will provide additional benefits to members and ensure productive and sustainable investment for the future.

36. Congress recalls that unions were instrumental in the establishment of industry funds as a major investment force, that that industry funds were early investors in Australian economic and social infrastructure, and companies offering real long-term growth. Congress also notes that unions supported the establishment of Members Equity Bank to provide much need competition in the home loan and banking sector, and have also supported a strong role for mutuals in provision of financial services for workers, mainly through a Credit Union network.

37. Superannuation policy is a major contributor to national savings. Industry superannuation policy should play a central role as a source of investment in the economy, in infrastructure and other nation building projects, while securing long term sustainable returns for workers' superannuation investments. Congress endorses the use of

superannuation policy in a partnership with the Federal Government in securing this outcome.

38. The current economic environment highlights the need and the opportunity for unions to be at the forefront of policy development. Congress supports the ACTU developing priorities that build on these initiatives. Amongst these priories should be:

a) improvement in the corporate governance structure of Sovereign Wealth Funds and their advisory councils to ensure properly representative governance structures, aimed at delivering capital support to nationally significant infrastructure and sustainable nation building projects;

b) supporting new forms of flexible long term Government bonds and other Government guaranteed investment vehicles that facilitate the investment of workers' capital in nation building and other nationally significant infrastructure and industry development investments and provide options for funds at different points on the risk/return spectrum;

c) involvement of industry funds in these projects particularly though Industry Funds Management (Members' Equity). The active involvement of industry funds can assist increase the transparency and public benefit in these projects;

d) exploration of opportunities for fund investment in social infrastructure, such as public rental housing, which could address areas of need while ensuring a reasonable return for workers' retirement savings;

e) affirmation of our support for ME Bank as the workers' bank of choice; and

f) a commitment to a sustainable mutual movement by consolidating and expanding the Credit Union network, encouraging cooperation and mergers to build on their individual strengths and promote efficiency, reduce costs and duplication of resources and to ensure that Government financial services policy builds a strong framework for the delivery of more effective mutuals.

**Competition in the provision of financial services**

39. Competition in the provision of banking and other financial services is essential to guard against excessive fees and predatory lending practices. Both Members' Equity Bank and union sponsored credit unions have a track record in providing low-cost home loans and other banking services to members and their families, as an alternative to the large four banks.

40. The past 18 months has seen competition in the sector reduced. This is due to continued tightness in credit markets and the government's deposit guarantee, which favours the large four banks.

41. The ACTU and unions will work to ensure that these pressures do not further reduce competition, and will support measures that ensure that the union members and their families can continue to access low-cost member-focused financial services.

42. Congress notes that the previous government policies that encouraged competition in the provision of superannuation, including member investment choice, choice of fund and the growth of self managed funds has impacted the ability of trustees to prudently manage investments in the long term interests of members. Congress calls for ongoing debate about the best way to empower members while ensuring trustees can meet their prudential obligations.

**Corporate Governance**

43. Congress affirms the ACTU view that good corporate governance should include corporate social responsibility, with an emphasis on environmental and social sustainability.

44. Funds invested on behalf of workers are affected by the success of the companies in which they are invested. Congress notes the growing evidence that company performance is assisted by good governance and that the UN Principles of Responsible Investing enjoy bipartisan support.

45. Superannuation funds, as long term investors, are exposed to long term risks and therefore have special responsibility to drive good corporate governance in Australia, and the growth of funds under management means pension funds can potentially influence corporate behaviour in the interests of long term investors on a global scale.

46. The ACTU and unions will continue to press for the key elements of good corporate governance, including director independence, transparent and accountable remuneration practices and better enforcement of directors' responsibilities.

47. In the immediate term superannuation funds can strengthen good corporate governance by:

    a) Insisting that their shares are voted at company meetings in accordance with a fund policy and that details of the voting are made available to fund members;

b) Requiring fund managers to engage actively with investee companies to ensure that they meet the highest standards of governance and social responsibility;

c) Positively and publicly supporting companies which exhibit good governance;

d) Requiring fund managers to consider and report on governance issues in their assessment of companies' risk profiles and management;

e) Being prepared to initiate and/or support resolutions at general meetings addressing issues related to corporate governance;

f) Lobbying for legislative change to enable resolutions on a greater range of subjects to be put at general meetings; and

g) As a last resort, being prepared to support legal action, where possible, to enforce companies' governance obligations.

48. In the longer term the equity held by superannuation funds in Australian firms could enable direct active shareholding, including appointing directors to boards. Consideration should be given whether this will deliver benefits to members by better alignment of interests and build the long term value of the firm.

49. Congress notes emerging research linking long term performance of firms with good labour management practices. However legal and practical barriers limit the active engagement and monitoring in these areas by institutional investor. These barriers include the prospect of triggering insider dealing or takeover provisions of the corporations law, costs of monitoring, imperfect information, and lack of agreed screens or measures of good practice.

50. Over the coming three years the ACTU will work with organisations including the Global Unions Committee on Workers' Capital, the Australian Council of Superannuation Investors, the International Corporate Governance Network and the Australian Institute of Employment Rights to develop transparent indicators of good labour management for use by institutional investors.