Retirement Incomes, Superannuation and Workers' Capital

Introduction

1. Congress affirms its support for Australia's three-pillar retirement income system based on: the aged pension, compulsory savings and voluntary savings. In particular, Congress confirms its support for our system of compulsory superannuation contributions and the not-for-profit model of super fund organisation. These features, together with effective government regulation and oversight, have combined to provide Australia with one of the most robust and well-governed retirement income systems in the world.

2. Congress pays tribute to the role played by unions and their members over the past 40 years in fighting for a retirement income system that protects the long-term financial interests of millions of workers in Australia and which will help many to lead more dignified and comfortable lives after they stop working.

3. Congress notes that the retirement income pillars remain poorly integrated, with longevity risk born by the tax system. Congress also believes that security in retirement is also dependent on factors beyond the three pillars – with job and income security during employment, and access to housing and healthcare being the most important.

4. This policy builds on those adopted by Congress in 2006 and 2009.

Superannuation: an industrial issue

5. Congress affirms its view that superannuation is an industrial issue. Compulsory contributions are deferred-wages. The obligation on employers to make such contributions arose from campaigning by unions to secure super for millions of workers who did not have their own accounts.

6. Further, many unions have been successful in negotiating contribution rates above the legal minimum and have ensured default contributions are made to strong performing industry and not-for-profit funds that do not charge excessive fees and commissions.

7. Congress rejects any view that superannuation should not be subject to collective bargaining and industrial regulation. Restrictions on the right of workers to bargain in relation to superannuation would remove the ability of millions of workers to increase their retirement savings, and would increase the risk of their savings being defaulted into retail funds that treat their contributions as a quick and easy source of profit.

8. Congress therefore resolves to vigorously resist any attempt to abolish the right of millions of Australian workers to negotiate in relation to the quantum, timing and payment of superannuation contributions.

9. Congress agrees that a key means of protecting and advancing the interests of contributing workers is to ensure that they are able to make contributions to appropriate industry and not-for-profit funds via the naming of the funds in industrial instruments. Congress commits to working to ensure that all workers have access to industry and not-for-profit funds for choice and default purposes.

10. In relation to Modern Awards, Congress supports the continuation of the jurisdiction of Fair Work Australia to determine funds named in Awards. This process, which should be the subject of periodic review, should be based on the following criteria:

    a) Performance: only those MySuper compliant products that APRA reports as being among the top 100 best performing in terms of net returns to members over an extended period (such as 10 years) can be eligible for inclusion as a default in an award;

    b) No 'flipping': only those MySuper products which expressly require the consent of members before they are transferred to another part of the product can be eligible for inclusion as a default in an award;

    c) Full disclosure: those parties which make representations to Fair Work Australia to have particular funds named in awards must fully disclose all relevant interests and declare that in advocating particular funds they are acting in the best financial interests of those affected;

    d) Industrial relevance: Fair Work Australia should be required to give particular regard to the views of parties with standing in relation to award content, and the relevance of the fund and its MySuper product to the particular industries and occupations covered by each award.

Superannuation Funds

11. The ACTU confirms its longstanding support for industry superannuation funds and other not-for-profits 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 and are the most appropriate vehicle for the collective provision of superannuation. Congress also reaffirms the important role that co-operation between funds, in the form of collectively owned service providers and investments, play in delivering lower fees and higher returns to members.

Incomes: adequacy & equity

12. Congress welcomes the important steps taken by the Labor government to increase the adequacy of retirement incomes. These include a range of actions consistent with previous Congress policy: the staged increase in the compulsory super rate from 9 to 12 per cent by 2020; the super contributions tax rebate for low-income earners; the increase in the upper age limit for compulsory contributions to 75 years; and the Future of Financial Advice reform process.

13. Congress believes that increases in the SGC should not be the subject of a "trade-off" from wage increases, particularly as the Government has announced an extended and staged increase to 12%.

14. However, Congress believes further steps by government, employers and unions are necessary if we are to make real progress in closing a 'retirement savings gap' estimated by some to be over $700 billion and growing. These steps should include the following:

    a) More campaigning and bargaining by unions in relation to superannuation, including default funds and the right of employees to contribute to an industry or not for profit fund;

    b) Extending the entitlement of all employees to SG contributions regardless of age and minimum earnings. In particular, Congress recognises the inequitable treatment of young workers, many of who perform work identical to that performed by workers 18 years or older, and yet are not currently entitled to any SG contributions;

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

    d) Requiring SG be paid while employees are on all parental leave;

    e) Recognising the lower superannuation balances achieved by many women, the implementation of further measures to improve their retirement income adequacy, such as top-up and co-contribution schemes;

    f) Government payments of superannuation contributions on behalf of long-term carers in receipt of Carer Payments or Allowances;

    g) Banning 'flipping', the practice of moving a member's super into a higher cost product without their permission when they change jobs;

    h) A continued focus on improving the quality of financial advice received by Australians, and the long held goal of ensuring advice is non-conflicted;

    i) The abolition of all asset based or ongoing fees for financial advice;

    j) Continued attention to consolidation of accounts, recognising that multiple accounts and fees are a key source of leakage from member's savings;

k) Legislation to continue the staged increase in the SG rate after 2020 to 15 per cent by 2025.

15. While recognising that the super contributions tax rebate for low-income earners will increase the retirement savings of many low paid workers, Congress remains concerned that the tax treatment of contributions remains deeply unequal as a disproportionate and unfair share of the tax concessions accrue to very high income earners. Congress agrees to continue to campaign for a simpler and fairer system of contribution taxation based on each employee's marginal tax rate minus a fixed offset.

16. As the super system matures it will play an important part in helping workers to lead more dignified and comfortable lives in retirement. However, Congress recognises that for many workers the Age Pension will continue to provide much of their post-retirement income. It is therefore vital that the public policy emphasis on promoting compulsory and voluntary saving does not distract from the need to maintain and enhance the value of the Pension now and into the future.

17. Therefore Congress reaffirms its support for a new benchmark for the Age Pension, to be achieved by 2025, of 35 per cent of Full Time Adult Average Weekly Ordinary Time Earnings and a single-couple equivalence of 70 per cent.

18. Congress supports the Fair Go for Pensioners Campaign and resolves to provide support to coordinate retired union members to build the strength of this national pensioners' organisation where appropriate.

19. Congress agrees that as life expectancy increases lifetime annuities have a potentially vital role to play in helping many future retirees to reduce the risk that the value and quantum of their savings will not be sufficient to support a comfortable living standard for the full duration of their retirement. However in Australia, partly because of the way they are taxed, the availability of such annuities is limited and their cost prohibitive for most.

20. Given this market-failure, and to provide retiring workers with additional choice in relation to how they wish to use their funds, Congress calls on government to consider providing a lifetime annuity product in the form of selling increases to the public pension. Retirees would pay a lump sum to the government in return for a pension indexed to wage growth and determined on an actuarially fair basis. Such a product would benefit from the government's greater capacity to invest assets in a risky portfolio against long-term liabilities of this kind, the government's status as a very low default risk, and its related capacity to access capital at relatively low costs. The ACTU will issue a discussion paper to affiliates for the purpose of further developing union policy on annuities and insuring against longevity risk.

Fund Consolidation

21. 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.

22. 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.

23. Congress calls on the Federal Government to restore and make permanent partial relief from capital gains tax to encourage consolidation and to remove other tax and regulatory impediments to fund consolidation.

Fund Governance: Quality, Representation and Transparency

24. Congress affirms its strong support for the representative trustee system and the ability of unions to nominate directors to trustee boards. This system has a proven record of providing effective, diligent and honest governance.

25. Congress recognises that the willingness and ability of retail funds to act in the best interests of their members is profoundly compromised by their primary concern to maximise profits for the parent organisations that own them. This conflict generates powerful incentives for retail boards (many of whose members are directly employed by the same institutions that supply core products and services to the entities managed by those boards) to negotiate contracts that are not in the best interests of members. Congress condemns the lack of transparency across much of the retail sector, making it difficult or impossible for retail members to identify potential conflicts of interest between retail funds and the organisations they do business with.

26. Congress notes that funds with representative systems of governance have routinely outperformed many of those retail funds whose boards are marked by such deep conflicts of interest.

27. Congress welcomes many of the measures currently being developed by government as a result of the *Stronger Super* policy process to strengthen governance. These include new obligations on trustees offering *MySuper* products to give added priority to the interests of fund beneficiaries in terms of net returns to members, and new obligations to consider the costs and taxation consequences of investment strategies.

28. Congress agrees that high-quality governance and transparency is crucial to protecting members' interests and in ensuring continued public confidence in the superannuation system. Further, Congress believes that industry and other not-for-profit funds should lead by example. More can and should be done to further improve the quality and transparency of superannuation governance. Congress therefore calls on funds and organisations that nominate representative directors (where they have not already done so) to adopt the following policies:

    a) Appointments to trustee boards should be on a renewable fixed term basis with an ideal term of no more than 3 years;

    b) Nomination and renomination decisions by sponsoring organisations should be made having regard to advice from the trustee board.

Sponsoring organisations should obtain and consider advice of the trustee board regarding the skills and experience sought by the board;

c) New directors without previous superannuation trustee experience should be required to complete a clearly defined minimum program of professional training including induction and orientation in the absence of which they will not be eligible for re-nomination;

d) Directors should be required to participate in an ongoing program of professional development and training in accordance with a formal policy adopted by their fund which is consistent with standards set by professional body such as AIST, with participation a pre-condition for re-nomination;

e) Organisations responsible for nominating directors to trustee boards should take into account the need to promote gender diversity on boards by increasing the representation of women;

f) While being a director of a number of organisations that are independent of each other is not inappropriate in principle, sponsoring organisations should consider any potential conflicts prior to making nominations;

g) Directors with a potential conflict (from another directorship or otherwise) should excuse themselves from conflicted matters without consideration of materiality;

h) Sponsoring organisations should develop support policies for trustee directors that clearly specify how their role and development as directors will be accommodated within other work commitments;

i) Funds should disclose to members the remuneration of directors and the senior executives of the trustee;

j) Funds should disclose to members the details of all related party transactions;

k) Recognising the role of service providers (including in relation to administration and investment) funds and the importance of public transparency throughout the superannuation system, funds should:

- Make full disclosure to members about these arrangements (including in relation to investment fees); and

- Implement standard contractual terms with material service providers requiring public disclosure of the remuneration of their directors and officers.

29. Recognising that there are some matters where system-wide action mandated by legislation is most appropriate, Congress calls on the Government to:

a) Reconsider the proposal in the Cooper Review to amend the *Superannuation Industry (Supervision) Act* to establish a distinct new office of "Trustee-Director" (with appropriate duties) in recognition of the importance of the role;

b) Require superannuation funds to conduct business with related parties on terms no more favourable to the related party than would be reasonable if the fund were dealing at arm's length;

c) Legislate to require the periodic disclosure of portfolio holdings by funds;

d) Consider ways to require comparable reporting by superannuation funds of the social utility of their investments and operations apart from long term net returns, including contributions to employment and investment in Australia, public goods arising from investments, such as infrastructure, and efforts to perform and promote sustainable investing.

Aboriginal and Torres Strait Islanders

30. Congress agrees that our superannuation system is not suited to the needs of many Aboriginal and Torres Strait Islanders. It assumes all individuals possess what are actually culturally-specific language, literacy and numeracy skills. It assumes all individuals live in economic, familial and cultural circumstances supportive of particular financial behaviors and outcomes. It assumes that members of different cultural groups have similar levels of life expectancy. These assumptions act to exclude and disadvantage many Aboriginal and Torres Strait Islanders.

31. Congress believes there are a number of practical measures that government and the super industry can take to help tackle this structural disadvantage:

a) In recognition of the gap in average life expectancies between Aboriginal and Torres Strait Islanders and other communities early access should be allowed to preserve superannuation accounts, retirement and the Age Pension;

b) Increased training and education to increase trustee awareness of the particular nature and needs of Aboriginal and Torres Strait Islanders. This should include a focus on the diversity and complexity of relationships within Indigenous families and communities, and the difficulties some family members and dependents face in accessing formal identity and financial documentation.

Workers' Capital: socially useful & sustainable investments

32. Congress agrees that workers' capital in the form of superannuation contributions has the potential to play a greater role in helping to build our nation. Subject to meeting the required risk-return profile within each fund's portfolio, many fund members would welcome seeing more of their contributions being put to work building new railways, schools, hospitals and other forms of essential and socially useful infrastructure. Congress supports collective investment (which provides appropriate scale) by funds in nation building investment.

33. To this end Congress calls on government to review its current tax and procurement policy settings with the aim of facilitating the greater long-term investment of workers' capital in our economic and social infrastructures. This should include specific consideration of the following potential initiatives:

    a) The development of new forms of flexible long-term government bonds and other government-guaranteed investment vehicles explicitly designed to attract workers' capital from within Australia;

    b) New means of facilitating investment (including government-guaranteed investment) in key areas of social infrastructure, such as affordable public housing and quality aged care, and green energy initiatives;

34. Congress recognises that industry and not-for-profit funds are major investors in some of the largest corporations in the world and that this will continue to be the case. Congress agrees that these corporations, which employ millions of workers in a huge variety of industries across the globe, should not place workers' investments at risk by engaging in poor and unsustainable employment and environmental practices.

35. Congress reaffirms its support for the Cooperative Movement in Australia, and for the cooperative principles in strengthening community-directed enterprises and community-owned assets. Congress notes that a number of Affiliates retain close bonds with the Cooperative Movement, especially through shared interest in credit unions and housing cooperatives. Congress notes that 2012 has been declared by the United Nations as the International Year of the Co-operative and welcomes this initiative. Congress calls for greater discussion amongst interested affiliates with the aim of developing a more comprehensive policy on co-operatives by Congress 2015.

36. Congress reaffirms its support for the role ME Bank can play in delivering fairer banking to fund members, and more generally the role played by mutual in the provision of financial services.

37. Congress notes its previous statements on corporate governance and corporate social responsibility, and congratulates those funds which have taken a lead in integrating environmental, social and governance (ESG) issues into their investment decisions. However, there is scope for improvement. To this end Congress calls on the trustees of all industry and not-for-profit funds to review how their funds perform in this area with the aim of implementing the best possible practice by Congress 2015.

38. In particular, this should involve taking steps to ensure that asset managers and consultants are required to actively consider and report on ESG issues in ways that enable trustees to systematically assess the extent to which the risks generated by poor environmental and employment practices are being managed effectively.

The Future: The ACTU Capital Stewardship Program

39. In order to advance this policy, the ACTU will establish a dedicated "Capital Stewardship Program" to protect and advance the interests of superannuation fund members. The program will:

    a) Ensure that unions and their members remain a leading voice in relation to all aspects of retirement incomes policy and investment;

    b) Engage with sponsoring organizations, funds, trustees, industry organisations and government on all aspects of fund governance, investment, ESG and shareholder rights;

    c) Work with partner organisations to ensure that appropriate education programs are available for union leaders, staff and members on superannuation and related matters;

    d) Co-ordinate and support public policy, industrial and campaign activity with affiliates in support of a fairer and more equitable retirement incomes system;

    e) Give workers a voice in the investment markets by intervening in public debates and by leading corporate governance shareholder initiatives and advocating for regulatory reform;

    f) Provide assistance to affiliates seeking to engage with shareholders on matters of mutual concern;

    g) Work with organisations in Australia and overseas who share our objectives;

    h) Seek to pioneer new forms of member engagement with their funds, particularly in relation to how funds invest their contributions.