WORKERS CAPITAL AND SUPERANNUATION

Introduction

1. Congress applauds the outstanding role played by Australian unions over four decades in helping to build our current retirement income system. In the 1970s and 1980s, the struggles and campaigning of unions resulted in many workers securing the right to workplace superannuation for the first time. Campaigning by unions for universal super ledto the introduction of the Superannuation Guarantee in 1992. Today, because of the commitment of unions to improving the quality of life of all Australian workers after they retire, millions of workers will accumulate superannuation savings that will help them to lead a better and more dignified life when they stop working.

2. Congress further applauds the pioneering role played by unions in establishing many of the best governed and best performing superannuation funds in Australia. In contrast to banksand other financial corporations who sell super products for profit, unions believe super mustput the interests of fund members first. Members of not-for-profit funds will retire with a greater amount in their accumulated savings than members of retail funds – this is becauseunions have established an all profits to members system, whilst at the same time, retail funds syphon commissions from their members' accounts to pay dividends to their funds' owners and excessive salaries to bank executives. Unions built not-for-profit funds because they embody our values. We govern them to ensure they continue to do so.

3. Congress recognises the enormous potential the Australian superannuation system has to generate the investments we need to build a more prosperous economy and a fairer societythat meets the Paris Agreement[1] targets and a fairer society. The more we save the more wecan invest. The more we responsibly invest the more jobs, incomes, and public revenues wecan generate. We can then increase public spending in support of those who need it most. Superannuation is not just about retirement. It has potential to enable us to build more of the infrastructure and industries that adopt a just transition and public services that we need now and in the future.

4. Congress recognises that the superannuation system needs to be reflect women's workforce participation and unpaid care work. The superannuation model must ensure gender equality in retirement outcomes. Unions will campaign to ensure the superannuation system is fit for purpose and reflects the economic and social structures which result in poor retirement outcomes for women. The superannuation system must deliver equal retirement outcomes for women.

1 "The Paris agreement is a global climate agreement under the United Nations Framework Convention on Climate Change (UNFCCC) at the 21st Conference of the Parties (COP21) in Paris (30 November to 12 December 2015). The Paris Agreement sets in place a durable and dynamic framework for all countries to take climate action from 2020, building on existing international efforts in the period up to 2020. Key outcomes include: A global goal to hold average temperature increase to well below 2°C and pursue efforts to keep warming below 1.5°C above pre-industrial levels; all countries to set mitigation targets from 2020 and review targets every 5 years to build ambition over time, informed by a global stocktake; robust transparency and accountability rules to provide confidence in countries' actions and track progress towards targets; promoting action to adapt and build resilience to climate impacts; and, financial, technological and capacity building support to help developing countries implement the Agreement." - Source

5. Congress affirms that super is core union business. Unions will campaign to ensure that ourvalues and our priorities shape the future of the funds we help to govern. We will continue to bargain to ensure the interests of our members are protected. We will continue to fight for government policies that will improve the quality of life for all retired workers.

Union principles

6. Congress affirms that the future of our retirement income system requires policies groundedin the following principles:

   a) The primary focus of the Australian retirement income system must be to support workers when they stop working, be that at retirement with their super, savings and the pension or earlier through their insurance and advice provided for by their super.

   b) Superannuation must not be a vehicle for those on high incomes to game their tax affairs to further enhance their wealth at the expense of public revenues.

   c) Unions support the establishment of a national objective for the Australian retirement income and superannuation system. Unions assert that the foundation principle for this objective should be that a worker's standard of living be able to be maintained when they leave the paid workforce. This principle is achieved through a worker having an adequate retirement income stream to meet a level of expenditure consistent with average community standards which is financed through or by a combination of superannuation savings, private savings, and the Age Pension.

   d) A principal factor in the delivery of this level of adequacy is an appropriately funded superannuation saving system. Unions recognise the current level of mandated contribution is inadequate to achieve this goal and the immaturity of the system means many workers, and particularly women, will continue to retire in the medium-term with less than adequate accumulated savings. Unions will continue their call for a review of the level of mandated contributions and the timing of their introduction.

   e) The retirement income system should attain equal outcomes for women, and reforms to the accumulation of superannuation and the provision of pension income should ensure that retirement income reflects all work. Women earn less than men due to historical undervaluation of women's work, time out of the workforce for child raising and other caring responsibilities which disproportionately fall to women.

   f) Unions assert that superannuation is one of three pillars for a strong retirement system. Superannuation, savings, and the Age Pension uphold workers' ability to retire securely. The Australian Government must maintain the Age Pension at a rate which allows dignity, security, and choice in retirement.

   g) The value of the Age Pension must be supported by linking it consistently to earnings so it can act as a proper safety net in order that a decent pension is always available to those who still need such a level of support.

   h) Retirement income policy settings relating to the preservation age and the availability of the Age Pension must allow workers to choose when they believe they can and should retire. They must also recognise that the capacity of workers to remain in employment can vary across industries and occupations.

   i) Superannuation contributions and earnings should be taxed at concessional rates up to a level which provide for adequate retirement income. Progressive rates of taxation should apply to encourage saving and to ensure fairness and equality of access to concessions across all levels of income.

j) Unions recognise that a disproportionate number of workers who experience periods of unpaid leave from their workplace during their working lives are women. This has a significant impact on the retirement savings of women and must be recognised and addressed in superannuation policies.

k) Superannuation contributions are deferred wages. Superannuation is therefore an industrial issue in the context of which unions have a vital role to play in workplaces and in the governance of super funds to make sure the interests of workers are represented and defended.

l) In our compulsory system, in the context of persistently low levels of engagement with super, it is vital that workers and their unions continue to be able to decide collectively which funds are best for their workplaces and industries. This helps to reduce the risk that individuals are exploited by funds owned by for-profit corporations.

m) Workers have interests in addition to the quantum of their eventual retirement incomes. They are therefore entitled to expect that the investments their contributions make possible are used to support nation building infrastructure, environmental sustainability, appropriate labour standards and the highest standards of corporate governance.

7. Congress notes that this policy builds upon and updates 2012 and 2015 Congress policies.Many of the measures supported by those policies remain relevant. Congress agrees that over the next three years unions will:

The industrial status of super

8. Vigorously resist any attempt to abolish or dilute the right of Australian workers to negotiate in relation to the quantum of superannuation contributions they receive or the selection of funds these contributions are paid to;

9. Advocate for a practical industry-based system for selecting default funds to appear in modern awards. The system should combine input from experts with the views of employer and employee representatives, under the jurisdiction of the Fair Work Commission. This is the best means to ensure the default funds which are selected best represent the interests of working Australians;

10. Defend the right of workers and their unions to collectively determine which funds are most appropriate to their workplace and industry. This is consistent with promoting workplace collectivism, encourages engagement with super, and helps to protect against the risk of poorly informed choices by disengaged individuals and employers;

11. Advocate for a superannuation system which entitles workers and their unions to pursue cases of superannuation theft and underpayment from employers as an industrial issue;

12. Investigate the establishment of an industrial regulatory agency which will oversee the governance, standards, and integrity of the superannuation sector. This agency would reflect the equal representation model of industry super funds and exist to make recommendations to government bodies regarding the default status of funds;

Governance

13. Oppose any attempt by government to dictate that not-for-profit funds should have independent directors or an independent chair. There is no evidence that equal representation governance is failing members or that mandating independent directors will improve outcomes. Congress notes that funds governed on an equal representation basis regularly outperform many of those governed by other means. Congress further notes that current regulation and some Trust Deeds already allow funds to appoint independent directors and chairs if they believe it is in the best interests of fund members to do so;

14. Recognises the important role of member representative directors in the Governance of funds and requires that any union-nominated director:

    a) Engage with and understand the policies and priorities of the union movement for asset owners, asset managers and the stewardship of workers' retirement savings,

    b) Attend and participate in collective events including the ACTU Super Trustees Forum, the Global Unions' Committee on Workers' Capital conference,

    c) Attend and participate in ACTU Workers' Capital meetings and briefings wherever possible,

    d) Engage with unions and peak bodies on the campaigns to improve the labour standards of investors and corporate governance,

15. Fight to continuously improve the quality of fund governance by:

    a) Requiring all directors complete a minimum and ongoing program of induction and professional development;

    b) Ensuring nominating organisations consider the skills and experience sought by boards and the need to promote all diversities, including gender. Such organisations should also provide the time and support necessary for nominees to effectively discharge their duties as directors; and,

    c) Supporting potential nominees to gain the skills to become trustees;

    d) d) Implementing a review of current fees and charges in the profit-to-member superannuation sector. Especially so that workers with incomes that are low, disparate, or irregular; or those on parental leave or workers' compensation do not have their retirement savings eroded by fees;

    e) Implementing a review of fund professionals' remuneration levels and structures, which are now commonplace in the superannuation industry, paid in the profit-to-member sector are consistent with members' values and expectations; and,

    f) Continuing to campaign against the banking industry's push back on Labor's Freedom of Financial Advice (FOFA) Legislation.

Retirement income adequacy

16. Bargain for early or immediate implementation of the 12 per cent Superannuation Guarantee (SG) rate. Unions will campaign for the delay in the legislated increase to 12 per cent to 2025 to be scrapped. Congress further reiterates its commitment for an Age Pension of 35% of full time adult male weekly ordinary time earnings (AMWOTE);

17. Campaign for the Superannuation Guarantee to reach 15%, or whichever greater figure achieves retirement income adequacy for workers;

18. Campaign to ensure that superannuation is paid on every dollar for every worker. The ACTU will ensure that retirement outcomes are included on any insecure work campaign. Campaign for a reasonable Age Pension asset test and taper rate. The current rate leaves too many workers and families worse off for having a modest superannuation balance;

19. Advocate for progressive taxation of superannuation, based on marginal rates minus a rebate. Congress notes that superannuation tax concessions are increasingly used by high-income earners to minimise tax and current arrangements are heavily skewed to the benefit of the wealthiest in our community. Unions will pursue the Low-Income Superannuation Contribution (LISC) being maintained until a progressive system has been implemented;

20. Unions will further campaign for:

    a) The immediate removal of the $450 per month & 18 years and under minimum earnings threshold for SG entitlement;

    b) The removal of minimum age restrictions for SG entitlements

    c) Ensuring contractors, self-employed, casuals and other non-secure workers receive SG contributions;

    d) The SG entitlement to be paid on all earnings, rather than Ordinary Time Earnings;

    e) Full superannuation contributions being paid during all periods of paid and unpaid parental and maternity leave, and whilst on Workers Compensation;

Adequacy of superannuation for women

21. Policies which increase the superannuation savings of women, including immediately removing the $450 and under 18 years of age threshold, noting that average superannuation balances are lower for women than for men;

22. The payment of an extra 2% superannuation for women workers and an expedited increase of the Superannuation Guarantee to 15% for women;

23. Super paid on all parental leave - both paid and unpaid parental leave;

24. The introduction of a superannuation accumulation pathway to which superannuation contributions below the pathway are topped-up by the government;

25. The removal of 15% contributions tax for all workers more than 10% below the accumulation pathway;

26. The inclusion of superannuation payments in Family Tax Benefit B;

27. Workplace agreements and awards which include a co-contribution of 1.5% for all staff more than 5% below the accumulation pathway;

28. Fee discounts from super funds for all account holders more than 10% below the accumulation pathway;

29. A fixed maximum fee for all super account holders below the accumulation pathway;

30. A fee-free period of up to twelve months for parents on paid or unpaid parental leave;

31. The option of tax averaging over a defined number of years when a period of unpaid parental or carers leaves has been accessed and,

32. Paying of superannuation contributions by government on behalf of long-term transfer payment recipients including carers in receipt of Carer Payments or Allowances.

Retirement income streams

33. Advocate for retirement income stream policy settings which facilitate options such as enabling retirees to use their lump sum to purchase a lifetime increase to the Age Pension from government or converting an accumulated balance into a regular AWOTE indexed income stream unless some or all the balance is used to complete mortgage repayments; and,

34. Consider new retirement products for superannuation which improve the adequacy, sustainability, and stability of retirement incomes for workers, given Australia's changing population. Retirement incomes should be predictable and provide for a similar standard of living for workers through their retirement as they

had through their working life. Unions and superannuation funds should explore the practicality and potential benefits of establishing Collective Defined Contribution (CDC) Plans in an Australian context, and ensure such products integrate with the industry fund distribution model given through the workplace and award system.

35. Congress urges affiliates to campaign against any further attempts to increase the preservation age or the age at which the Age Pension becomes available and will campaign to restore age 65 for accessing the pension. While some workers may wish to work for moreyears than was typical in the past, policy must recognise that the capacity of workers to do so varies across industries and occupations. Congress agrees that policy must facilitate a reasonable degree of choice and flexibility that allows workers, and particularly those who are employed in dangerous or physically demanding occupations, to retire when they believethey can and should.

36. Congress notes that the Australian superannuation system is subject to continuous policy review and change, and this is undermining public confidence in the system and negatively impacts the cost to members. Congress agrees this is driven in large part by sharply conflicting views of what our super system shouldbe about, generating the highest possible incomes for retirees or generating profits for retailfunds owned by banks. Congress supports the establishment of a Council of SuperannuationCustodians whose role would be to assess, endorse or reject future reform proposals to theextent they are consistent with enhancing the adequacy, sustainability, and fairness of the superannuation system. Such a Council should be independent of government and be comprised of eminent Australians committed to progressive social policy and should includeunion representation.

37. Congress notes that Australian superannuation system assumes all individuals have similarlanguage, literacy and numeracy skills, and similar levels of life expectancy. These assumptions act to exclude and disadvantage many Aboriginal and Torres Strait Islanders (ATSI). Congress agrees ATSI people should have early access to retirement, the Age Pensionand preserved superannuation accounts. Furthermore, Congress urges the superannuationindustry to provide increased training and education to directors and fund staff about the particular needs of ATSI people and the difficulties they often encounter when attempting toengage with a system that has been designed for others.

38. Congress notes that those who unknowingly hold multiple accounts suffer an erosion of theirretirement savings due to duplicated fees. Unions call on industry funds to address multipleaccounts on the principle that superannuation is an industrial right and the solution to multiple accounts should be consistent with this principle.

Insurance

39. Superannuation is an industrial right providing for retirement savings which contribute to a retirement income, and insurance protects those retirement savings.

40. Congress notes that all workers should have access to insurance as part of their superannuation, be they starting out in a shop or cafe or in the middle of a career with higher incomes or risks. Older Australians also have insurance needs that are underacknowledged.

41. Insurance companies need to adhere to community standards, and changes are needed to ensure that unconscionable negotiations fail. Overall, the poor behaviour needs to be regulated and does not outweigh the benefit of shared liability.

42. Providing insurance through superannuation is the most cost-effective method of providing death, total and permanent disability (TPD) and income protection.

43. Congress supports the role of default insurance in protecting retirement benefits from unexpected events and asserts its role as consistent with the sole purpose test.

44. Australian workers have the protection of the sole purpose test, which sees that all activities of super funds must be for the sole purpose to provide retirement benefits to its members or their dependants if the member dies before retirement. Unexpected events, such as being out of work due to an injury, illness, or disablement, impact on a person's retirement benefits. A premature death also impacts on the persons family and their ability to build up retirement savings over the years that would have seen contributions continue.

45. Congress calls for explicit inclusion of insurance in the sole purpose test.

46. Congress supports the role of group insurance in tailoring products and coverage to meet the needs of the group and in reducing costs by pooling premiums and risks.

47. Congress notes that one of the most significant benefits of group insurance is that everyone in the group gets the insurance, and this means there are no health checks. If workers were to apply for these types of insurance without being part of a group, the insurance company asks a lot of questions to assess the risk of death, disablement, or loss of income. Those processes can be time consuming, expensive, and invasive. If workers have a pre-existing condition, even conditions that the application was not previously aware of or that they are getting good treatment for, they might be required to pay more and/or wait for a certain amount of time before getting cover.

48. Congress calls for default group insurance for all workers.

Advice

49. Just as insurance has a role in retirement savings, so too does information, general and personal advice. Those with information are more engaged in their super, those who are engaged are more likely to seek general advice, and those who seek general advice are more likely to seek personal advice. Together, advice helps Australians make informed decisions about their finances, and their superannuation.

50. Congress notes that financial advisers are often expensive, not trusted and paid in conflicted ways, and that therefore superannuation funds have an important role in giving members access to straightforward advice that they can afford and trust to help them protect their retirement savings.

51. Sadly, access to good advice is not equitable and made more difficult as it is often targeted to high wealth individuals and companies. Given the complexity and potential advantages of rules and taxation arrangements, advice supports material financial increases in retirement saving.

52. Congress supports the role of advertising, engagement with the public and the press, and other provision of information to enable engagement between members and their superannuation. Congress supports the role of general advice in providing simple accessible information to support decision making.

53. Congress notes that advice should not be seen as a solution to lack of savings by low- and middle-income earners. It is not a lack of desire or intellect that stops working people from saving and buying a home. Congress acknowledges that workers cannot choose to save if their wages are not keeping up with costs of living.

Portability of entitlements

54. Congress notes the significant changes to nature and regulation (or lack thereof) of work in our society and acknowledges that as work changes so to must the benefits and entitlementsprovided to workers. As work becomes more mobile and fluid our systems of entitlements needs to be equally mobile and portable so that change is not a means to deny or erode hardwon entitlements. The problem of unpaid super and superannuation theft already illustratesthis challenge. Similar challenges can be identified in relation to other established entitlements such as annual leave and long service leave. To address these problems, Congress calls on the ACTU and a future Labor Government to investigate the potential for our superannuation system

to be utilised as a mechanism to ensure other workers entitlements are maintained and mobilised as our society continues to change.

Workers' capital: growth, sustainability & social justice investing in the economy

55. To promote the greater use of workers' capital to generate the sustainable growth and the progressive society unions want to see, Congress agrees that unions will prioritise work to this effect.

56. The priority for working people is the economic recovery from the COVID-induced recession. Congress notes that superannuation investment will be critical for a sustainable economic recovery. Investment in the recovery should have a gender lens, acknowledging that tourism, aviation, higher education, hospitality, and retail are women-dominated industries which were some of the hardest-hit by COVID and need additional investment to recover.

57. The ACTU has developed core investment principles grounded in the ILO Conventions and the UN Sustainable Development Goals. Congress urges all investors to agree to implement the following Global Labour Principles across their assets in collaboration with the union movement. Investors recognise and will protect:

    GP1. Recognition of trade unions as workers' representatives and supporting the rights of working people to establish and choose to be members of trade unions without hindrance;

    GP2. The right of workers to collectively bargain, to be consulted on changes in the workplace and to participate in decisions about their work and workplace;

    GP3. The right for workers to be paid a fair wage and benefits including access to appropriate training and development;

    GP4. The right for workers to be free of forced labour and child labour supported by due diligence that eliminates modern slavery and exploitation in an asset's supply chains;

    GP5. The right for workers to a safe workplace, with the responsibility of the employer to provide a safe workplace through prevention of work-related accidents, illnesses, and diseases by minimising hazards and ensuring the workplace is free from discrimination, violence, bullying and harassment;

    GP6. The right to a workplace which promotes respect, diversity, and inclusion;

    GP7. The right to gender equality with respect to wages, conditions, superannuation fund or pension contributions and eligibility, safety, position, and workplace structures;

    GP8. The right to protection under the law, where the employer complies with all legislative and regulatory requirements related to the protection of the worker's rights, entitlements, and safety; and

    GP9. The right to remedy where any worker's right has been violated their employer and access to fair and transparent dispute settlement recognising the right for workers to be represented by their union throughout.

58. The ACTU has developed a *Just Transition Guide for Investors* which will assist investors with their responsibility for workers during industrial transformations as a result of, for example, climate change, or the automation or digitisation of work. Congress urges investors to adopt the framework and collaborate with unions on its implementation.

59. The ACTU will develop additional training and support for trustee directors that highlights the scope for more action by superannuation funds to:

a) Invest collectively in Australia's economic and social infrastructure, in particular to help build a better and fairer economy that is required in response to the COVID-19 induced recession;

b) To support just transition initiatives that address employment and labour market issues;

c) To support gender equality initiatives that address employment and labour market barriers;

d) Demand better governance, investment, and employment practices by thecompanies in which super funds invest; and,

e) Engage with, screen out or divest from those companies who persist in engaging in unsustainable, high-risk, or irresponsible behaviour, such as excessive executive salaries;

60. The ACTU will Identify and promote alternative models of investment that meet our societal and union objectives and where such models do not undermine public service employment and public service provision;

61. The ACTU will advocate for the national government to establish a new representative Superannuation Investment Agency (SIA) comprising government, employee, and employer all-profit-to-member (APTM) Industry Superannuation Fund representatives, the ACTU, and superannuation sector institutional investors, to oversee a number of new government functions, responsible for facilitating and enabling additional superannuation investment in key sectors of the economy. Thenew functions include:

a) Coordinating targeted capital raising from the APTM superannuation fundsand to act as a capital aggregator to invest in specific projects and sectorsof the economy, such as:

- Capital for research and development, innovation, and commercialisation, especially in low carbon industries;
- Scaling up small and medium enterprises (SMEs) in key industry sectors such as advanced manufacturing, research, community care and education;
- The provision of long-term debt for the development of Australian infrastructure and industry; and,
- Thematic investment such as in affordable housing, continuing education, and health services;

b) Determining the potential and capacity for projects under consideration forinclusion on the Infrastructure Australia Priority Infrastructure List (PIL) fordelivering economic or social infrastructure, to be funded and financed bygovernment through tax revenue, a bond issue, borrowing or, superannuation sector equity and other forms of investment;

c) Designing and coordinating project procurement where governments seekdirect superannuation or fund investment to fully or partly fund and financegovernment economic and social priorities in circumstances where it has been determined that such projects are suitable for funding, in whole or in part, by the superannuation sector, in conjunction with one or more fund managers from a pre-qualified list of fund managers;

- Performing a global clearing house role in relation to foreign pension fund investment in Australian economic and social infrastructure (public and private) to ensure that each proposed foreign pension fund investment is in the national interest;
- Facilitating the making of binding agreements involving industry, government, trade unions and civil society, on responsible business conduct at the industry level (as has been commenced by the Dutch Government).

62. The ACTU will advocate for a remodelling of Infrastructure Australia (IA) by:

a) Altering its Business Case Assessment Guidelines to require project proponents to consult with the Superannuation Investment Agency in the preparation of funding and financing options for inclusion in business cases for assessment by IA.

b) Requiring projects on the Infrastructure Australia Priority Infrastructure List(PIL) that have been determined as suitable for funding, in whole or in part,by the superannuation sector to be referred to the Superannuation Investment Agency for designing and coordinating project procurement in conjunction with a selected fund manager.

c) Amending the *Infrastructure Australia Act 2008* by including in s5A Functions—evaluating infrastructure proposals - a new subsection that requires Infrastructure Australia to consult the community in evaluating infrastructure proposals.

63. Congress recognises that these initiatives will needto be founded on sound risk mitigation approaches encompassing a commitment by APTM superannuation funds and their asset managers to:

a) Engage with labour unions and/or coalitions of labour unions and/or peak labour union councils proactively and in good faith on a continual basis at bidding, acquisition, and management of the asset. Funds should recognise the expertise of the union movement in identifying and mitigating labour and health and safety risks during due diligence and asset management.

b) Strong corporate governance requiring appointment to the board of the asset operating company one or more independent directors with competency and expertise in environmental, social, and governance (ESG) standards generally and labour relations, safety, and workforce development in particular;

c) Report annually on an operating company's ESG performance;

d) Establish a stakeholder advisory body to the operating company board that includes each of the unions operating within the company's new asset. The role of such a body is to provide advice to the board and management team on strategic issues including such matters as master planning, asset productivity, investment planning and execution, implementation strategies for new technologies, workforce security and workforce safety;

e) A commitment to adopt agreed labour standards including in upstream and downstream supply chains; and,

f) A Just Transition strategy based on three key principles:

- Rights at work (freedom of association and effective recognition of the right to collective bargaining);
- Social protection (access to health care and income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity, or loss of a main income earner); and
- Social dialogue.

Superannuation fund investment in infrastructure (social and economic) and realassets

64. The ACTU supports industry and public sector super fund investment in economic and socialinfrastructure, and real assets, to help provide the assets and services required by the community, and to diversify the investments those funds make to help improve retirement outcomes for super fund members.

65. The ACTU will oppose government policies or actions which incentivise privatisation, such asasset recycling programs.

66. The ACTU is strongly opposed to industry and public sector super funds promoting or aiding the privatisation of existing public assets or services. ACTU and union nominated trustees on industry and public sector super funds will actively monitor their fund's participation in the privatisation of any infrastructure, service, or real asset investment to ensure the fund does not promote or aid privatisation.

67. The ACTU supports industry and public sector super funds investing in infrastructure and realassets in partnership with government in circumstances where governments seek institutional or private capital to supplement or substitute public finances to build or providenew infrastructure or where there are current service gaps (i.e., where the government does not currently provide that type of service), or to upgrade existing infrastructure, subject to thefollowing conditions:

a) That the proposal from government has been subject to a public assessment process to determine if, in the case of projects under consideration for inclusion on the Infrastructure Australia Priority Infrastructure List (PIL) such projects should be fully funded and financed by government through tax revenue, borrowing or a bond issue; or, if there could be a role for the private sector in funding or financing in whole or in part such proposals. The case for privatisation needs to be made by government and be transparent with full public disclosure as to the costs, risks, and benefits, including an analysis of service provision to the community (reportable measures by which the private providers will be held accountable in the service provision), and labour standards.

b) That there is appropriate economic regulation in place that fairly balances the needs of the investor and the fund members (beneficiaries) it represents with the stakeholders who use (users) or operate the asset (workers).

c) That project costs must be fully transparent and subject to review by public authorities including Auditors General or equivalent bodies.

d) That if the proposal involves the privatisation of an existing public infrastructure asset or service where public sector workers are affected, that there be an agreed process involving unions for addressing the transition from public operation to private operation. Workers' pay and conditions, including their job security, cannot be worse off as a result of the privatisation.

e) That any government procurement process inviting private capital participation in the proposal include environmental, social and governance (ESG) standards that must be complied with by tenderers, or in the absence of government imposed ESG standards, the super fund tenderer publicly declare the ESG standards that it will adhere to if it is the successful bidder. That in relation to the social standards, the minimum requirements must include the following commitments:

   - That there will be engagement with labour unions and/or coalitions of labour unions and/or peak labour union councils.
   - That the governance arrangements to be put in place by the new operator, lessee or owner require(in circumstances where the market offer is for long term operation, lease or sale of a physical asset or service), the appointment to the board of the asset operating company (i) one or more independent directors with competency and expertise in environmental, social, and governance (ESG) standards generally and labour relations, safety and workforce development in particular; and (ii) a culturally and gender diverse board that includes at least equal number of men and women.
   - That the operating company report annually on the operating company's ESG performance against an agreed set of human rights and labour standards indicators.
   - That the operating company establish a stakeholder advisory body to the operating company board that includes each of the unions operating within the company's new asset or service. The role of such a body is to provide advice to the board and management team on strategic issues including such matters as master planning, labour relations, asset productivity, investment planning and execution, implementation strategies for new technologies, workforce security and workforce safety.
   - That the operating company publish its Responsible Investment Policy and a Responsible Contractor Policy which specifies the agreed labour standards that will apply to the operation, including in the company's upstream and downstream supply chains.

- That the operating company adopt an agreed Just Transition strategy.
- That the operating company agree to adopt agreed labour relations standards consistent with the 8 core ILO conventions (and other ILO conventions and standards)

Government procurement

68. Congress commits the ACTU to advocate for the inclusion of robust and best practice environmental, social, and governance (ESG) principles in all Government (Commonwealth and State/Territory) procurement policy and processes, that draws on the leading examplesfrom Australian State and Territory government and foreign government procurement policy.Congress will advocate for:

    a) The inclusion of specific environmental standards, greenhouse emissions reduction targets and just transition obligations, including a commitment to social dialogue, as part of the tender requirements for firms wishing to tender for the supply of goods and services to the Commonwealth Government;

    b) The inclusion of specific labour and human rights standards, for each of the 8 core ILO Convention requirements (such as workforce unionisation, currency of collective agreements, to provide job security, the presence of active workforce and union engagement processes, and commitment to social dialogue on all labour issues) and for OHS, gender equality, workforce diversity and grievance mechanisms, as part of the tender requirements for firms wishing to tender for the supply of goods and services to the Commonwealth Government;

    c) The inclusion of specific governance standards, including but not limited to compliance with the law and tax obligations as part of the tender requirements for firms wishing to tender for the supply of goods and services to the Commonwealth Government; and,

    d) The inclusion of specific ESG obligations, as outlined in (a) to (c) above, on investors that bid for the purchase or lease of a Government asset or service or that offer to finance a public-private partnership (PPP), however structured, in the tender documents that invite investor participation any government economic or social infrastructure project or service.

A new collective vehicle

69. Congress supports the establishment of a new collective vehicle (Risk Ratings Agency) whichwill be used to evaluate environmental, labour, and social, and governance (ESG) risks for workers' capital investments. The model, methodology, structure, and ownership of the agency will be determined in consultation with affiliates and other relevant organisations.

Improving corporate governance, shareholder rights and company disclosure

70. Congress notes that the fallout from the Banking Royal Commission shows that corporate Governance in Australian companies falls below community standards and expectations. Congress agrees to advocate for changes to laws, regulation and guidance aimed at improving the standard of corporate governance, shareholder rights and company ESG disclosure, including:

    a) Implementing disclosure requirements for CEO pay rations to curtail excessive executive salaries,

    b) Introduce a binding vote on remuneration to ensure shareholders get a meaningful say on the pay-setting at large companies,

    c) Holding annual director elections for listed entities to increase accountability on company directors, and,

    d) Require that boards are gender equal.

71. Congress notes that Australia vastly underperforms other developed economies when it comes to

collaboration in the workplace between management and employees. The Banking Royal Commission – as well as other corporate scandals – has shown that a narrow focus by boards on profits and near-term shareholder return at the expense of broader social and ethical considerations can be toxic to the culture of business. Such a culture hurts customers, the enterprise itself as well as the broader economy. Overseas experience shows that employee representation on boards will allow for a culture of honesty, transparency, and joint ownership in the future of the enterprise – this should lead to higher wages outcomes and better company performance in a mutually beneficial exchange. To this end Congress will campaign for:

a) State and Federal Governments to ensure employee-representatives are appointed to Government-managed and nominated boards, and

b) Changes to the Corporations Act 2001 (Cth) to require companies to appoint a worker-elected Director to the board.

72. The key initiatives Congress which agrees to advocate are:

a) Amendments to the Corporations Act 2001 (Cth) to:

- Provide for a general-purpose right to move both binding directive and non- binding resolutions at a company annual general meeting (AGM), with regulations to set out the criteria that must be met by a shareholder in determining if its resolution is permitted as either binding directive or non- binding resolution – with a 50% threshold;
- Provide for a binding vote on a sustainability/ESG report. Again, regulations could specify the factors that could be advanced by a shareholder seeking a binding vote in relation to a company's sustainability/ESG report (Note: this presupposes that sustainability reports become mandatory in Australia, which is covered by proposal (vi) below. This requirement is emerging as a mandatory requirement based on new European Commission (EC) laws which will spread to the rest of the world.) – with a 50% threshold;
- Enhance shareholder participation in company governance by making it simpler to lodge resolutions at company AGMs. To achieve this, it is proposed to reduce the percentage of votes required to be held from 5% to 3%, and the number of members entitled to vote, who may put a resolution, from 100 to 20;
- Provide a similar rule applied by the US Securities and Exchange Commission (SEC) – the proxy access rule - granting holders of 3 percent or more of a company's shares for two years, access to the company's proxy statement for nominees for up to 25 percent of the board;
- Clarify that the duty to act in the best interests of the corporation contained in s.181(1) - Good faith—civil obligations - requires directors to give effect to business enterprises' obligation to respect human rights.
- Require companies to disclose political expenditure to shareholders in annual reports and at AGMs; and,
- Require mandatory sustainability reporting, setting out the key matters that must be included in company sustainability reports.

b) Amendments to the Superannuation Industry (Supervision) Act 1993 (SIS Act) to:

- Strengthen the covenants to be included in the governing rules of registrable superannuation entities (RSEs) around a broad definition of fiduciary duty to take into consideration environmental, social and governance (ESG) issues in assessing risk, consistent with the US Democrats Sustainable Investment Policies Bill and the Retirees Sustainable Investment Policies Bill introduced into the US Congress in late 2020;
- Prohibit profit making entities from becoming a RSE on the basis that profiting shareholders and allowing speculative trading of shares in a RSE is inconsistent with the primary objective of

superannuation;

- Require default superannuation funds to have a responsible investment policy that includes, inter alia:
  - Explicit identification of the environmental, social and governance(including tax practices) risks that the fund considers are essential to disclose, measure and report, consistent with its investmentbeliefs;
  - Explicit commitment to adopt a minimum or benchmark set of labour relations and human rights indicators that can be rated or measured that are integrated into investment decision making for: (i) screening of potential investments; and (ii) active ownership of existing investments;
  - A just transition strategy that considers employment, skills, and labour issues;
  - Adoption of an Australian Social Indicators Ratings System; and,
  - Adoption of a Labour Standards Code or Responsible Contractor Policy for infrastructure investments.

c) Reform of regulatory practice including:

- Requiring the Australian Prudential Regulation Authority (APRA) to update the ESG provisions in its Prudential Practice Guide SPG 530 Investment Governance (and equivalent prudential standards/ guidance applicable to its regulated banks and insurers) to clarify to superannuation funds that ESG issues are salient to risk and return analysis and that ESG risks should therefore be incorporated alongside other risk factors in investment decision making;
- Requiring the Australian Securities Exchange (ASX) to strengthen its Corporate Governance Principles regarding:
  - Human capital management and in particular commitment aroundlabour and human rights;
  - A just transition strategy; and,
  - Tax practices, consistent with the OECD Action Plan on Base Erosion and Profit Shifting (BEPS) and associated corporate reporting and disclosure.
- Requiring the Australian Securities and Investments Commission (ASIC) to monitor and report on the quality of corporate disclosure and reporting, including sustainability reporting that addresses ESG and tax practices performance;
- Requiring ASIC to amend its Regulatory Guide 65 which advises on Section 1013DA disclosure requirements relating to Product Disclosure Statements (PDSs) for superannuation products, so the Guidelines provide clear guidance on the detail of labour standards performance, including just transition measures, taken into account in selecting, retaining or realising an investment; and,
- Incorporate ESG sustainability ratings and research agencies within APRAs regulatory framework aimed at ensuring greater accountability of these firms and to ensure they comply with minimum performance standards and levels of transparency in their ratings methodologies and reporting.

Tax regulation

73. Congress welcomes the work undertaken by affiliates in relation to ensure multinational companies pay a fair and appropriate level of tax for their earnings in the country in which those earnings are made. Congress also notes this is a significant corporate governance issue and calls on union directors of superannuation funds to exercise their rights as part owners of these companies to ensure such companies adopt ethical practices as well as legal ones in the payment of their tax. Congress calls for legislative improvements in the transparency and disclosure of the operation of multinational companies' tax arrangements.

International collaboration and coordination

74. Congress acknowledges the important work that the International Trade Union Confederation (ITUC) and its Committee of Workers Capital (CWC) along with the Council of Global Unions (CGU) representing the Global Union Federations (GUFs) plays in coordination of the global workers capital agenda, and in particular the strategic, policy and networking leaderships that these organisations play. Congress agrees that the ACTU continue to support these organisations and, in particular, provide material support to the CWC, and actively participatein its global networking, trustee education, asset manager accountability initiative, campaigning and information exchange initiatives.
75. As workers' capital grows and increasingly invests internationally, it is critical that the Australian union movement work in collaboration with international leaders to improve workers' rights in projects and companies that superannuation funds invest in. The Australian Union movement will work to integrate our goals for the stewardship of workers' capital with those of our global brothers and sisters.