### Superannuation Governance:

# International trends and how Australia stacks up

Paper prepared by Karen Volpato, Senior Policy Advisor, AIST and
Eva Scheerlinck, Executive Manager Leadership and Governance, AIST

September 2014

## Key findings:

- International commentators all note that good governance is important. Among other things, good governance is associated with good performance.
- Most countries favour a principles-based – as opposed to a prescriptive - approach to pension fund governance. In Australia, the ASX Corporate Governance Principles and the APRA Prudential Standards adopt a principles-based approach.
- Different models of pension fund governance are valuable. Of 22 OECD countries, the majority have equal representation boards (representatives of both members and employers), while another six have member representation.
- Prescribing independent directors is not the answer. Many international commentators, such as the OECD, strongly believe independence of thought and mind is more important than meeting a strict definition of being an 'independent director'. However, evidence regarding the value of that independent directors bring is not definitive, both here and overseas.
- Trust law underpins the strong governance of super funds and best protects beneficiary interests.

**About AIST**

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the $600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members.  Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

# Introduction

The growing significance of superannuation – both to the members it serves and the Australian economy – underscores the importance of best practice governance of superannuation funds.

Strong trustee governance practices reduce the potential risks faced by a superannuation fund, with flow on effects for the fund's stability and sustainability. Good performance and sustainability are fundamental to optimising members' retirement benefits.

International commentators all note that good governance is important. Among other things, good governance is associated with good performance. Governance of the Australian superannuation system is strong. According to the Australian Centre for Financial Studies and Mercer, *Melbourne Mercer Global Pension Index*, 2013, Australia ranks first out of 18 countries in relation to Governance – an improvement following the recent StrongerSuper reforms. Australia was previously ranked third.

In recognition of the importance of governance, the Australian superannuation industry is currently implementing a raft changes in the area of fund governance that significantly strengthen the duties and obligations of trustee directors and their boards. This follows the introduction of new governance standards and guidance by the Australian Prudential Regulation Authority (APRA) as a well as a new suite of legal obligations in the Superannuation Industry (Supervision) Act 1993 (SIS Act). These new obligations take trustee director responsibilities to a much higher standard than that of company directors.

Notwithstanding these relatively recent developments, the Government is currently reviewing the board structures of super funds. In November 2013, the Government issued its *Better Regulation and Governance, Enhanced Transparency and Improved Competition in Superannuation* Discussion Paper seeking feedback on several key governance issues, including the most appropriate definition and proportion of independent directors on superannuation boards.

The Financial System Inquiry – which is due to release a final report in November this year – is also examining fund governance, as part of a wider review of the efficiency and sustainability of the superannuation and banking sectors. In its recently released July 2014 Interim report, the Inquiry Panel questioned whether the trust structure, which forms the basis for the governance of superannuation, is best placed to meet the needs of all members in a cost-effective manner.

The ongoing debate about superannuation/pension fund governance is complex and nuanced and all too often over-simplified by media commentators. The focus of government reviews tends to be centred around board composition, the prescription of independent directors and the legal foundation of super fund governance – trust law. Good governance, however, is achieved through the efficient interaction of many organisational features. Good governance should permeate the fund's entire operations and at all levels within the fund's management structure, such as clearly delineating the roles of the trustee board and management, accountability arrangements within administration and finance systems, and robust risk management systems. This includes the appropriate management of conflicts of interests. Any valid attempt to improve superannuation governance should therefore be multi-dimensional and informed by international pension fund governance best practice trends and guidelines.

Following the Global Financial Crisis, a review of governance practices was high on the agenda overseas. The microscope was placed on financial institutions (including pension funds) both in Europe and the USA and some clear themes emerged on best practice governance practices that are associated with improved investment performance and alignment with members' best interests.

This Paper examines some of these post-GFC international reviews of corporate and pension fund governance to provide a deeper perspective on how the governance practices of Australian super funds sit with the rest of the world.

## The OECD and EU approach

Many European commentators have noted that good governance is associated with good performance and that certain pension governance practices are associated with improved investment performance, better risk management and better alignment of beneficiaries' long term interests. There is recognition that while different approaches may be required for different pension fund structures in the various markets, a high standard of fiduciary responsibility to the interest of all beneficiaries is critical to maintaining pension fund integrity.[1]

Both the OECD and the European Commission favour a principles-based approach both to corporate and pension governance, rather than a prescriptive approach. As is evident in the accompanying boxed text, various governance guidelines issued by the OECD and the EU since the GFC reinforce this approach and recognise the value and validity of different governance frameworks. Such principles-based governance codes in the UK and Europe use a 'comply or explain' model. This model is seen to heighten the levels of accountability and transparency, more so than a prescriptive approach, as boards have to actively engage with the principles to explain their reasoning to shareholders or beneficiaries.

**"Both the OECD and the European Union Commission favour a principles-based approach"**

- *OECD Guidelines for Pension Fund Governance*[2] note that the governing body should be accountable and have final responsibility, and recognises that different models may be used to achieve this.
- *OECD Corporate Governance and the Financial Crisis: Conclusions and Emerging Good Practices to Enhance Implementation of the Principles*[3] reinforces the OECD principles.
- European Commission Green Paper[4] - Calling for ways to improve corporate governance in financial institutions (which includes banks, insurance companies and pension funds) supports the OECD principles-based approach.
- European Banking Federation's response[5] to the European Commission Green Paper says that corporate governance should be principles-based, balanced and adequately flexible to reflect different national structures and business models (ie. recognising different EU models).
- The UK Law Commission favours the flexibility that the law of trusts brings to the fiduciary duties of pension fund trustees, as opposed to a prescriptive codification of the law that ultimately results in unintended consequences.[6]

[1] Johnson, K. and de Graaf, F. (2009). Modernising Pension Fund Legal Standards for the 21st Century, Organisation for Economic Co-operation and Development. Available at: http://www.oecd.org/corporate/ca/corporategovernanceprinciples/42670725.pdf Feb 2009

[2] OECD Guidelines for Pension Fund Governance June 2009. Available at: http://www.oecd.org/pensions/private-pensions/34799965.pdf

[3] Organisation for Economic Co-operation and Development, (2010). Corporate Governance and the Financial Crisis: Conclusions and emerging good practices to enhance implementation of the Principles, Organisation for Economic Development and Co-operation. Available at: http://www.oecd.org/corporate/ca/corporategovernanceprinciples/44679170.pdf

[4] European Commission. (2010). Green Paper: Corporate governance in financial institutions and remuneration policies, Brussels, European Commission. Available at: http://ec.europa.eu/internal_market/company/docs/modern/com2010_284_en.pdf

[5] European Banking Federation (2010). EBF Response to the European Commission's Green Paper on Corporate Governance in financial institutions, Brussels, European Banking Federation. Available at: http://www.ebf-fbe.eu/uploads/documents/positions/CorpGov/6-%20September%202010-D1313D-2010-EBF%20response%20Corporate%20Governance%20GP%20-%20final%20version%20-%20clean.pdf

[6] The Law Commission, (2014). Fiduciary Duties of Investment Intermediaries, UK. Available at: http://lawcommission.justice.gov.uk/docs/lc350_fiduciary_duties.pdf

## The OECD and EU on skills sets and independence

While recognising the importance of 'independence of thought and judgement' on boards, the OECD stops short of prescribing independent directors for pension fund boards, placing emphasis on the diversity and skill sets of directors and the management of conflicts of interest. *OECD Guidelines for Pension Fund Governance*[7] state that the governing body should be suitable through having an appropriate mix of skills, in addition to compliance with fit and proper criteria. In a second paper, the *OECD Corporate Governance and the Financial Crisis: Conclusions and Emerging Good Practices to Enhance Implementation of the Principles*[8] reinforces OECD principles and identifies weaknesses in board practices. The Paper states that the objective should be to create boards capable of objective and independent judgment. When using a principles-based approach, the OECD argues that the principle should be that the board is capable of exercising independent and objective judgment, alongside skills, fitness and propriety.

The OECD Paper goes on to state that:

- Promoting competence on boards is more critical than a focus merely on independence;
- While there is no inherent conflict between independence and competence, the OECD notes that sometimes formal independence may be necessary while independence per se is never a sufficient condition for board membership;
- The question of independent directors may have been pushed too far in favour of negative lists and this may have led to qualifications (eg. positive list of board attributes) or suitability being of secondary importance in considering new board recruits; and
- Independence of thought and judgment is important.

The EU also emphasises the importance of board skill sets. *The European Commission Green Paper*[9] calling for ways to improve corporate governance in financial institutions, recommends widening of the fit and proper test to include the evaluation of expertise and individual qualities of candidates – and balance between independence and skills. Interestingly, the EU recommends that for the profit-making entities (eg. banks) there should be a strengthening of legal liability for directors through a 'duty of care' to take into account interests of (bank) depositors. Similarly, *the European Banking Federation's response*[10] to the European Commission Green Paper supports diversity of board member profiles with a focus on professional skills, with the furthering of a board's overall efficiency being a primary focus when considering the composition of the board.

## Strong support for employee or member representation

As noted by the OECD, a principles-based corporate governance model enables different governance structures to be implemented – and caters even for governance models that do not yet exist. A 2008 OECD Working Paper on Pension Fund Governance[11] concluded that employee or member representation could ensure a better alignment with the interests of beneficiaries. The paper contains the following suggestions for improving the composition of pension fund boards:

- Encourage the appointment of employee/ member nominated representatives, taking into account the need for an appropriate mix of skills and accountability to plan members.
- Define 'fit and proper' criteria more accurately, extending it to the collective knowledge and experience of the board and calling for suitable training where specific experience or knowledge are not required prior to appointment to the board.
- Consider the costs and benefits of introducing licensing for the trustee entities (boards and corporations).
- Allow, and encourage, the use of independent professional trustees.

All of these are covered either within APRA's Prudential Standards or – in the case of allowing one independent trustee – legislation. Of the 22 countries reviewed by the OECD in 2008, 13 have equal representation and a further six require some form of member representation on the board (see table overleaf).

[7] OECD Guidelines for Pension Fund Governance June 2009. Available at: http://www.oecd.org/pensions/private-pensions/34799965.pdf

[8] Organisation for Economic Co-operation and Development, (2010). Corporate Governance and the Financial Crisis: Conclusions and emerging good practices to enhance implementation of the Principles, Organisation for Economic Development and Co-operation. Available at: http://www.oecd.org/corporate/ca/corporategovernanceprinciples/44679170.pdf

[9] European Commission. (2010). Green Paper: Corporate governance in financial institutions and remuneration policies, Brussels, European Commission. Available at: http://ec.europa.eu/internal_market/company/docs/modern/com2010_284_en.pdf

[10] European Banking Federation (2010). EBF Response to the European Commission's Green Paper on Corporate Governance in financial institutions, Brussels, European Banking Federation. Available at: http://www.ebf-fbe.eu/uploads/documents/positions/CorpGov/6-%20September%202010-D1313D-2010-EBF%20response%20Corporate%20Governance%20GP%20-%20final%20version%20-%20clean.pdf

[11] Stewart, F. and Yermo, Y. (2008). Working Paper on Pension Fund Governance, Challenges and Potential Solutions, Organisation for Economic Co-operation and Development. Available at: http://www.oecd.org/finance/private-pensions/41013956.pdf

**OECD 2008 summary of representation on superannuation boards across various countries**

| | |
|---|---|
| **Australia** | Non-public offer funds (company and industry-wide funds) must have an equal number of employer representatives and member representatives on the board of directors of the corporate trustee or in the board of trustees. |
| **Austria** | The board of supervisors of the pension fund may have two seats fewer for employee representatives than for the sponsoring employer or other shareholders of the pension fund. |
| **Belgium** | The board of directors of a pension fund must have equal representation of employers and employees. |
| **Brazil** | At least one third of the supervisory board and the audit committee must be composed of worker representatives. |
| **Canada** | There are no requirements for single employer plans. Multi-employer plans established pursuant to a collective agreement are governed by a board of trustees composed in accordance with the plan or collective agreement (typically equal representation). |
| **Germany** | Supervisory Board: employee representation depends on the number of employees in the pension fund, with a maximum of equal representation. |
| **Hungary** | Mandatory pension funds must have member representatives in their board of directors. |
| **Iceland** | The board of the pension fund must have equal representation of employers and employees |
| **Ireland** | No requirement for employee representation. |
| **Israel** | No requirement for employee representation. |
| **Italy** | The general assembly and the board of directors must each have equal representation of employers and employees. |
| **Japan** | The Board of Representatives of Employee Pension Funds must have equal representation of employers and employees. |
| **Mexico** | No requirement. |
| **Netherlands** | The board of the pension fund must have equal representation of employers and employees. |
| **Norway** | The board of the pension fund must have at least as many employee as employer representatives. |
| **Poland** | Not less than half of the members of the supervisory board of the occupational pension society should be nominated by the members of the fund. |
| **Spain** | The majority of the control commission must be selected by plan members and beneficiaries. No requirement for member representation in the board of pension fund management companies. |
| **South Africa** | At least half of trustees must be elected by plan members. |
| **Sweden** | The board of the foundation must have equal representation of employers and employees. |
| **Switzerland** | The supreme council of a pension fund must have equal representation of employers and employees. |
| **United Kingdom** | At least one third of trustees must be member-nominated. |
| **United States** | No requirements for single-employer funds. Multi-employer (Taft-Hartley) funds must have equal representation of employers and employees. |

# US pension schemes – a non-prescriptive approach

Most US employee benefit plans (including pension plans) are governed by the *Employee Retirement Income Security Act* 1974 ('ERISA'). The main features of ERISA so far as governance is concerned are:

- Those exercising control have fiduciary responsibilities (ERISA requires plan 'fiduciaries' to act prudently and solely in the interests of the plan's participants and beneficiaries – and prohibits self-dealing).
- There is to be at least one named fiduciary with the authority to control and manage the plan.
- There are no member representation requirements for single employer funds, but there must be member representation on multi-employer funds.
- Fiduciaries are to run the plan solely for the interests of the participants and beneficiaries.
- Plans are to be run with well-documented decision-making processes, comply with laws and disclosure requirements, monitor vendor fees for reasonableness and service quality, and regularly assess plan performance.
- While not required to have independent fiduciaries, many schemes choose to appoint them.

While US listed companies have prescriptive listing requirements (see below), most US employee pension plans are provided with:

> "significant latitude in how plan sponsors design and conduct plan governance, eg. the creation and composition of specific benefit plan committees, their responsibilities, and the types of governance related documents they use. However, this does not imply that governance can be ad hoc or unplanned. Rather, the complexities of ERISA's many requirements, and the potential liability to fiduciaries if they breach their duties and to employers for compliance failure, create a pressing need for a thoughtfully constructed plan governance system."[12]

### No requirement to have 'independents'

In the case of public pension plans, representatives of the sponsoring organisation, current employees, beneficiaries and independents of US public pension plans comprise the boards.[13] While there is no single code of governance practice in the US, individual funds such as CalPERs have developed their own codes of practice and make their own call on the value of independents.

### Different approach to corporate governance

The experience in the US in regards to corporate governance is far more prescriptive and different to that of the UK, OECD and European Commission. The US models of corporate governance require independent directors. However many commentators have noted that US independent director requirements are easily avoided by selecting directors who are 'legally' but not actually independent.

- Most US employee pension plan directors are required to act solely in the members' interests.
- Member representation on multi-employer plans.
- No requirement to have independents – but many choose to.

[12] Towers Watson U.S. Retirement Plan Governance Survey, (2011). The New Governance Landscape, Implications from the 2011. Towers Watson USA. Available at: http://www.towerswatson.com/en/Insights/IC-Types/Survey-Research-Results/2011/12/The-New-Governance-Landscape-Implications-From-the-2011-Towers-Watson-US-Retirement-Plan-Governanc

[13] Harper, J.T. (2008). Board of Trustee Composition and Investment Performance of US Public Pension Plans. Oklahoma State University, Available at: http://www.rijpm.com/admin/article_files/Joel_Harper_Board_of_Trustee_Composition_and_Investment_Performance_of_US_Public_Pension_Plans_February_2008.pdf

## Have 'independents' added value?

### International research findings

When examining whether independents 'add value', it is useful to examine why the concept of independent directors was developed. 'Independents' were included on corporate boards as there is a variety of competing interests – shareholders, controlling share holder interests, various factions of shareholders to balance, and management interests. This is not the case with not-for-profit superannuation funds, which exist solely for the members and other beneficiaries, and which do not have shareholders. The international jury is out on whether 'independent' directors add value.

In its 2008 report Governance and Performance in Corporate Britain, the Association of British Insurers (ABI) examined whether good governance delivers performance.[14] The ABI operates the Institutional Voting Information Service which analyses UK listed companies in relation to levels of compliance with corporate governance best practice.

The Report covers the boom period before the GFC, yet still finds that investors in listed companies put a premium on good governance. The Report notes the following:

- Corporate governance involves the interaction of many organisational features in complex ways. Assessment of corporate governance should therefore be equally multi-dimensional.
- One size of governance does not fit all.
- Independent directors are featured in the context of whether there are sufficient non-executive directors to balance the number of executives on the board.
- Other factors include the appropriateness of performance targets, remuneration practices, composition of audit committees, and shareholding packages in excess of 40%.

As a comment, the ABI Report highlights the principle that the appointment of independent directors as a single factor does not equate to good corporate governance.

Some US commentators similarly question the value afforded to independent directors by policymakers. Professor Donald C Clarke in his article, *Three Concepts of Independent Director,*[15] notes that "despite the surprisingly shaky support in empirical research for the value of independent directors, their desirability seems to be taken for granted in policy-making circles. ...Independent directors have long been viewed as a solution to many corporate governance problems. Well before the Enron and WorldCom scandals, the New York Stock Exchange already required the presence of independent directors on audit committees, and in the United States, insider-dominated boards have been rare for years. ...Some studies have even found a negative correlation between board independence and corporate performance."

**"One size of governance does not fit all"**

Professor Clarke goes on to comment that there is significant disagreement as to how independence is defined. For example, those who see the independent director primarily as a defender of shareholder interests against management will naturally see more shares being held as beneficial. Those who see the independent director as someone untainted by any financial interest in the company are suspicious of share ownership. Professor Clarke concludes by saying that we do not even know what we mean when we talk about the independent director and that therefore, any jurisdiction planning to include independents should think carefully about the purposes and objectives for including independents.

[14] Selvaggi, M. and Upton, J. (2008). Governance and Performance in Corporate Britain, Association of British Insurers. Available at: http://www.gmiratings.com/noteworthy/ABI_Feb_2008.pdf

[15] Professor Clarke, D. (2007). Three Concepts of the Independent Director. George Washington University Law School. Available at: http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=1045&context=faculty_publications

## Australian research findings

There are several Australian studies on the value of independent directors – most concluding that there is no empirical evidence either way as to whether independent directors add value.

**"There are too many factors to single out whether independent directors add to growth"**

In its 1999 study, *Do Independent Directors Add Value?*,[16] the University of Melbourne reviews corporate governance guidelines and board composition from a range of countries and authorities, including the International Corporate Governance Network (ICGN) and the OECD. The University's findings:

- Do not prove conclusively whether or not independent directors are valuable.
- Fail to produce solid evidence as to whether independents add value or destroy value.
- There are too many factors involved in corporate performance to single out whether independent directors directly add to growth.
- There are many other factors which lead to good performance – eg. was it a period of growth, did the board meet often or not, is the company large or small – to determine whether 'independent' directors in themselves add value.

The McKell Institute, 2014[17] comments that the academic research examining whether having independent directors on boards has improved performance by delivering higher returns is, understandably, unequivocal: 'Board independence is not aimed at improved performance in terms of higher returns to shareholders, but rather the prevention of systemic underperformance due to mangers optimising their own utility rather than their shareholders'.

[16] Lawrence J. and Stapledon G. (1999) Do independent directors add value? The University of Melbourne. Available at: http://www.law.unimelb.edu.au/files/dmfile/IndependentDirectorsReport2.pdf

[17] The McKell Institute, Macquarie University, Centre for Workforce Futures, (2014). The McKell Institute: The success of representative governance on superannuation boards. Sydney

# International reflections on the value of the trust structure

In its Interim Report, the Financial System Inquiry is seeking views on the appropriateness and cost efficiency of the trust structure for the superannuation industry.  The Inquiry has generally expressed interest in seeking comments on international comparisons with the Australian financial system.  This section therefore examines – and confirms – the international view that trust structures best protect members and their beneficiaries.

The legal framework that trustee directors operate in is based on trust law. This sets the limits of a trustee's discretionary powers and assigns duties and obligations to protect the interests of beneficiaries. Many commentators believe the trust structure is fundamental to a retirement savings system that ensures the highest standards of governance.

A recent report by the Law Commission[18] in the UK examined the nature of trust law around fiduciary duties. The report considered these duties in the context of the UK pension fund system, and the difference in duties of fiduciaries, and the protection of beneficiaries, across pension funds based in trust law, and those created in a contractual relationship.

The report quotes Lord Justice Millett's summary of a fiduciary relationship in Bristol and West Building Society v Mothew:

"The principal is entitled to the single-minded loyalty of his fiduciary. This core liability has several facets. A fiduciary must act in good faith; he must not make a profit out of his trust; he must not place himself in a position where his duty and his interest may conflict; he may not act for his own benefit or the benefit of a third person without the informed consent of his principal. This is not intended to be an exhaustive list, but it is sufficient to indicate the nature of fiduciary obligations. They are the defining characteristics of the fiduciary."

"The distinguishing duty of a fiduciary is "the duty to loyalty". However this duty of loyalty sits alongside the other statutory, equitable and common law duties which a fiduciary might owe."

## "There are serious problems with the law relating to contract-based pensions"

In the UK there are two separate and very different legal foundations underpinning pension funds – those based in trust law and those based in contract. An individual can purchase a pension product from an insurer in the UK, and that is a product based in contract law. Reviewing the two systems, however, the Law Commission report noted:

"There are serious problems with the law relating to contract-based pensions. The contract model assumes that savers are fully informed autonomous parties, able to make good judgements in the market place. Yet the evidence is that savers fail to engage with pensions. This has now become institutionalised by auto-enrolment, where people are placed in pension schemes by default, without any conscious agreement to the charges or contract terms."

The report states that a distinguishing duty of fiduciary is their duty to loyalty to the beneficiaries of the trust. That duty of loyalty however sits alongside the other statutory, equitable and common law duties which a fiduciary might owe. In contract, the duty of loyalty, and the obligation to protect the best interests of the pension fund member are absent.

In a pension scheme context trustees are asked to "make the decisions that members would have made for themselves, if they had the time, expertise and motivation to do so." The protection that trust law offers to the beneficiaries as vulnerable and disengaged members of pensions schemes is far higher and more appropriate in the circumstances than a relationship based in contract law.

[18] Law Commision UK (July 2014) Fiduciary Duties of Investment Intermediaries available at: http://lawcommission.justice.gov.uk/publications/fiduciary_duties.htm

## Observations in light of the Australian context

The Australian superannuation system is envied internationally. Australia's superannuation system now covers over 94% of the Australian workforce,[19] has over $1.8 trillion under management, and is equal to Australia's GDP.[20] The majority of Australians rely on trustees to prudently manage their retirement savings. Australia's superannuation industry comprises several types of superannuation models, each with different governance and ownership structures. Some superannuation funds are owned by banks, some are owned by individuals (Self Managed Superannuation Funds), while the not-for-profit superannuation funds exist purely to manage money for the retirement of members and other beneficiaries.

The governance model of not-for-profit funds is based on an equal representation model whereby an equal number of the fund's employer and employee-sponsored directors are nominated or elected to the fund's board with an overarching protection of a two-thirds majority vote. In addition, many boards have appointed independent or non-representative directors.

AIST believes that the representative trustee model, with flexibility to appoint up to one-third independent directors, is the best governance model. Importantly, representative directors provide independence from profit-making financial institutions, diversity of thinking and a unique culture of commitment and innovation.

AIST supports the diversity of governance models in the Australian super system due to the existence of stringent governance requirements, via a combination of Commonwealth legislation and trust law. The application of trust law to Australian superannuation funds replicates other Anglo-Saxon jurisdictions. As Keith L Johnson and Frank Jan de Graaf[21] note, "trustees have generally been held to a higher standard of conduct than is required of corporate directors or parties to a contract."

The overriding legal requirement is that the board of trustees of superannuation funds must act in the best interests of members (and beneficiaries). In part, Australia has adopted a principles-based approach to superannuation governance. Much, however, is also prescribed in SIS legislation.

**"A higher standard of conduct is required of trustees than corporate directors"**

The combination of heightened duties in the SIS Act and the new Prudential Standards for superannuation has resulted in the Australian superannuation system receiving the highest score out of 20 countries for the integrity (governance and regulation) of its system in the Mercer Global Pension Index.[22]

[19] Australian Bureau of Statistics, (2009). Trends in Superannuation Coverage. Available at: http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features70March%202009

[20] The Hon B Shorten (2013). Address at the Conference of Major Superannuation Funds. Brisbane. Available at: http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=speeches/2013/002.htm&pageID=005&min=brs&Year=&DocType=

[21] Johnson, K. and de Graaf, F. (2009). Modernising Pension Fund Legal Standards for the 21st Century, Organisation for Economic Co-operation and Development. Available at: http://www.oecd.org/corporate/ca/corporategovernanceprinciples/42670725.pdf Feb 2009

[22] Melbourne Mercer Global Pension Index (2013), Mercer, Australian Centre for Financial Studies. Available at: http://globalpensionindex.com/2013/melbourne-mercer-global-pension-index-2013-report.pdf

Australian Institute of Superannuation Trustees
Ground Floor, 215 Spring Street
Melbourne VIC 3000

**Phone:** +61 3 8677 3800
**Fax:** +61 3 8677 3801