

# FSC Policy Paper for Consultation

## Stapling and Group Life Insurance Policies in Superannuation

### 1. Overview

The *Treasury Laws Amendment (Your Future, Your Super) Act 2021* implemented the Royal Commission's recommendation to 'staple' a member to their existing superannuation product.

Stapling will commence 1 November 2021 and was strongly supported by the Financial Services Council (FSC) and consumer advocates as an important consumer protection to prevent the creation of duplicate superannuation accounts with unnecessary fees.

Stapling ensures that when a member changes their employer, unless the member is engaged and elects to switch to a new superannuation fund, they will remain with their stapled fund determined by the Commissioner of Taxation. Members may therefore also be stapled to any default group life insurance associated with a MySuper product and will retain that coverage when they change their employer.

Concerns have been raised that stapling could have a detrimental effect on disengaged members' life insurance by preventing some members from making a claim in circumstances where the group life insurance policy in a MySuper product contains exclusions related to occupational classifications.

The FSC and life insurance industry agrees that it is important that disengaged superannuation members do not inadvertently find themselves unable to claim against their life insurance coverage when they move between occupational classifications. This paper sets out the FSC's proposed industry-led policy proposal for consultation to better protect superannuation members.

### 2. Role of exclusions

Exclusions are a common and important component of all types of insurance, including general insurance and private health insurance, as they enable the insurer and insured to agree what is and is not covered, and provide insurance which is affordable for consumers. Exclusions are often applied where the risk is not understood or unquantifiable by the parties, or the risk is too great to be satisfactorily priced.

Superannuation trustees have used exclusions as a mechanism to ensure pricing is fair for all members in an insurance pool as they are explicitly connected to the cost of a premium paid by the member. By limiting risk, exclusions limit the claims that will be accepted. This in turn reduces premiums for the customer, in this case superannuation members.

There is a distinction between exclusions applying to default insurance cover in MySuper products and those that might be applied to voluntary insurance applications or

upgrades where a member is tailoring the cover to their individual needs. If a member is increasing their cover in this way, the increase will typically be individually underwritten. Where an exclusion is consequently applied based on the individual member's circumstances, it will be explained to the member who can choose to accept the terms offered or not. Superannuation trustees make the application of exclusions clear in the disclosure materials about default cover provided to members.

### **3. Proposed scope of action**

The FSC is consulting on the scope of the problem, solution and mechanism to implement the solution as outlined below.

Problem: Where the default life insurance in a MySuper product has exclusions that apply to certain occupations (for example, working in a hazardous workplace), a member working in one of those occupations may be unable to claim for the default insurance for which they have been paying insurance premiums.

Solution: The FSC proposes to introduce a prohibition on the use of any terms in MySuper group life policies that would cause a claim to be declined in default group life insurance in superannuation on the basis of a change in the occupational classification of the member.

Mechanism to implement change: The FSC is seeking feedback on different options to implement the solution. The options available to industry include:

1. Implement a prohibition on these terms on life insurers through an Appendix to the FSC's Life Insurance Code of Practice (Life Code), noting that whilst all group insurers are members of the FSC, complexity arises from the Life Insurance Code being mandatory for life insurers and not superannuation trustees;
2. Introduce an enforceable FSC Standard that requires FSC members to not establish group policies that contain these terms and remove them from existing policies, noting that not all superannuation trustees are members of the FSC; or
3. The FSC issues industry guidance that stakeholders can consider as part of determining the design of group policies.

The FSC recognises that an industry-led solution requires consultation with regulators, including the Australian Competition and Consumer Commission (ACCC), Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA). The FSC will seek feedback from regulators on their expectations as part of this process. The FSC would also welcome feedback from other stakeholders on whether the options listed above may require third-party authorisation.

Transitional arrangements: The FSC proposes that a one-year transitional period from the date the measure is implemented, to provide superannuation trustees and life insurers time to amend existing group policies.

#### 4. Out of scope

**Other types of life insurance** – cover underwritten through a group life contract or as a retail life insurance contract (including within superannuation) are unaffected by stapling and are out of scope.

**Unaffordable cover** – Some funds don't offer default life insurance to certain members due to their occupation. While these members have no default cover, they are also not paying premiums. Not offering default cover to the highest risk occupations avoids those members having disproportionately high premiums that may cause superannuation balance erosion. Noting the Government's progressive implementation of reforms to prevent balance erosion the FSC does not intend to extend these changes to members that are ineligible for cover to avoid undermining the effectiveness of these reforms.

**Benefit design** – some funds use different scales of default cover for different occupations to ensure that the appropriate balance is maintained between the size of premiums, the risk of balance erosion and the level of life insurance cover. The use of different benefit scales is common in the industry and are used to protect member outcomes. The FSC does not propose disturbing the use of benefit scales through this process.

**Non-occupational exclusions** – some exclusions apply equally to all members, as distinct from exclusions that apply only to some members depending on their occupational classifications.

Examples of exclusions that apply equally to all members and which are not dependent on occupational classifications include:

- Intentional self-inflicted injuries – to avoid any perverse incentives for vulnerable members experiencing a mental health condition.
- Injuries sustained while committing a crime.

Non-occupational exclusions would remain out of scope.

#### 5. Next steps

- The FSC welcomes industry, consumer group and public feedback by Friday 3 September via [policy@fsc.org.au](mailto:policy@fsc.org.au).
- The FSC will be consulting with the ACCC, ASIC and APRA.