

Democratising super would bring more independent voices to the negotiating table

Written by Anthony Asher, Associate Professor, UNSW

If taken to its logical conclusion, the [superannuation legislation](#) currently before parliament could lead to some much-needed changes to power structures in the finance industry.

The legislation is the latest in two decades of regulatory reform aimed at increasing the efficiency and effectiveness of superannuation.

In a recent [paper](#) written with Sue Taylor and Julie-Anne Tarr, we provide evidence that while participants in the industry remain dissatisfied with its regulation, charges have remained stubbornly high, which is partly related to conflicts of interest and duty.

A key element of the new legislation would force industry boards to ensure that at least a third of trustees are independent and overseen by an independent chair, as well as ensuring they hold annual general meetings.

But the logical conclusion of having annual meetings for superannuation funds is that members - like shareholders of public companies - should be given a vote. By doing so, both independent trustees and members will have real power over the funds.

Read more: [Giving you more say in your super? Not likely with these changes](#)

Superannuation funds are legally “trusts”, and trustees hold assets for beneficiaries, who are effectively regarded as not competent to handle the assets themselves. Such a top-down approach was probably never appropriate in this context, and is now clearly outdated.

Empowering members

In our paper, we argued that “regulatory capture” has allowed the financial sector to extract significant amounts of money from superannuation funds. Regulatory capture occurs when special interest groups are able to deflect regulation that would otherwise prevent them from exploiting their stakeholders.

The major problems we identify are overcharging and over-servicing. You can tell when this is happening when the costs of a self-managed super fund are not higher than those of retail funds, despite the latter enjoying huge economies of scale. While our paper was concerned with regulatory solutions, this new legislation should go further in empowering superannuation members.

In the current legislation, annual meetings would be limited to asking questions. But by calling the beneficiaries of superannuation funds “members”, we already acknowledge implicitly their right to vote for trustees and hold them accountable at meetings. Let’s give it to them.

Independent directors with their own constituencies could be more likely to stand against rent seeking by the financial sector. That case has been made [in a recent paper](#) by Scott Donald and Suzanne Le Mire. They argue that reforms to introduce independent directors have the potential to deal with some of the governance shortfalls, but only if they deal with issues related to director nomination, selection, tenure and remuneration.

In interviews with board directors, they found concrete examples of a lack of independence influencing decisions around “fund mergers and related party transactions” where members’ funds were at risk. They argue that “an appointment nomination process that includes member elections promotes the accountability of the board and improves transparency. Both can be expected to inspire legitimacy.”

Democracy is the least worst system

Of course, by itself, democratising boards will not change anything on its own because, similarly to everyday voters, board members may not choose to avail themselves of their powers.

[A recent paper](#) found that only 20 companies on the ASX faced shareholder initiated resolutions in a typical year. However, when stirred into action, as recently on the topic of

management remuneration, shareholders have [voted against boards](#) .

Read more: [Australia is ripe for shareholder activism](#)

Democracy provides a channel to voice discontent, to criticise power from a position of power, and ultimately to replace incumbents. It is the “worst form of government except all others that have been tried”. People will still be able to choose what super fund they wish to use, but they can be more empowered as members of that fund.

There are good reasons for thinking that members will be more engaged than shareholders if they have voting rights. Many members will already interact with each other at work, and meetings held in the workplace are likely to be better attended and lead to more engagement.

Those most interested in their superannuation – not least because of their larger balances – are those approaching retirement and in early retirement, who may have more time and capacity to contribute to fund governance.

My experience as an elected trustee and on various regulatory bodies has been that the boards functioned well and the election processes create a relatively high level of engagement. Such engagement also seemed to include greater financial literacy, which should have a positive spin-off in financial preparations for retirement.

Building economic democracy

In terms of social benefits, adding more independent voices to super boards will lead to greater accountability. Long term superannuation savings contribute almost half of our business capital. If funds are democratically controlled, then one would potentially have a virtuous circle of mutual accountability.

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According to management expert Peter Drucker, the as yet unfocused power of retirement funds is one element of the development of a “ [post-capitalist society](#) ”. Elected trustees will still have to exert themselves to exercise oversight over the boards of companies that they control, but they will be less dependent on other directors who currently also appoint them.

Read more: [For retirees, nothing is certain but debt and taxes](#)

Drucker was also an advocate of employee involvement in what he called “work-community” issues such as superannuation benefits. In his view, these issues were not necessary to management’s purpose, and “offer major opportunities for leadership, for recognition, and for learning”.

The shift of power from the financial sector and trade unions directly to the people will help distribute power more widely, and free these institutions up to focus more on their own intrinsic social functions.

The current legislation is toothless without true democracy, but after two decades of trying to find the best governance structure for superannuation in Australia, it could bring more independent voices to the negotiating table and will help to make the sector more democratic.

Anthony Asher is a Fellow of the Actuaries Institute, but the views expressed here are his own.

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