

Industry superannuation funds and SRI: A lever for better labour practices?

John Lewer, Christiaan McComb, Peter Waring and John Burgess
University of Newcastle

The extent of industrial democracy in Australia is limited, with generally few formal mechanisms for employee participation and voice in the governance and management of organisations despite the normative claims of the human resource management movement. Along with low levels of union density, the *Workchoices* legislation clearly set out to reduce representation and participation even further by attempting to facilitate the exclusion of unions from the workplace. However, we see some scope for extending industrial democracy and implicitly trade union presence through the lever of industry superannuation funds. An initial study of the investment practices of industry superannuation funds identified few actively pursue socially responsible investment. We contend, therefore, industry funds, within their obligations imposed under the relevant superannuation law, to promote labour standards and improved industrial relations practices.

Introduction

Although the changes have not been uniform, as measured by density, trade unions in Australia and in most other OECD countries have experienced a significant decline over the past two decades. Well familiar data from the OECD shows that, for example, from the year 1982 until 2002, density fell in Australia from 48.0 per cent to 22.9 per cent, Germany 38.4 per cent to 23.2 per cent, Japan 30.6 per cent to 20.3 per cent, United Kingdom 48.7 per cent to 30.4 per cent, New Zealand 65.1 per cent to 22.1 per cent and the United States 19.5 per cent (for 1983) to 12.6 per cent. Scandinavian countries such as Sweden and Finland tended to defy this trend with density remaining relatively stable or increasing – only a 0.9 per cent fall experienced in Sweden (to 78.0 per cent) and a rise from 68.4 per cent to 77.8 per cent (in 2001) in Finland (OECD, 2004). It is beyond this paper to analyse the explanations for this decline excepting to note, for Australia, the adverse regulatory settings for unions established by the provisions of the Howard government's *Workchoices* legislation. This hostility to unions and individualist philosophy to labour regulation were also well manifest in the Coalition's rhetoric. For instance, and memorably, Kevin Andrews, a former minister of Workplace Relations, in an interview reported in *The Sydney Morning Herald* declared that he was 'not inherently opposed to unions' but added that unions 'would be finished within 15 years if they kept "their heads in the sand"'. He warned 'extinction' would occur unless unions would 'bend to the new workplace regime and accept individual work contracts' (Garnaut and O'Malley, 2005).

This decline in union density has, *inter alia*, very important implications for employee voice particularly when compounded by heightening managerial prerogative, the contraction in the number of workers covered by collectively-bargained agreements (AWAs and non-union agreements) and in the narrowing of the range of issues regulated through those agreements as evidenced, for example, by the prohibited content provisions of the *Workplace Relations Act*. Towers (1997) put this as the 'representation gap'. Bray et al (2001) have contended that the rise of individualism paralleled with the associated promise of human resource management (HRM) of employee 'empowerment' through meaningful consultation, team building and increased worker autonomy has done little to address the gap. Determining that 'although the underlying philosophy of HRM has proved popular with Australian management', they found 'little evidence to suggest that HRM has established effective internal mechanisms to provide workers with a genuine means to speak and be heard' (2001: 27). Recent work undertaken by Forsyth (2007: 305) (in examining the debate over the transferability of European Works Councils to Australia as a means to heighten employee participation) reinforces these

findings. Overall, he concluded that as well as significant impediments to the adoption of Works Councils in Australia (principally differing approaches to industrial relations) he did note the desirability of finding enhanced voice mechanisms given the ‘relatively limited development and incidence of consultative and participatory practices, both generally and specifically in respect of business restructuring issues’.

Similarly, and despite some support from the previous federal government, perhaps more exotic forms of participation such as employee share ownership programs (ESOP) which transfer equity to employees have not been eagerly adopted by most Australian firms. ABS (2005) data shows that between 1979 and 2004 whilst the percentage of the Australian workforce with such schemes rose significantly from 1.3 per cent, coverage remained low overall at (just) 5.9 per cent. Adoption levels aside, ESOPs have questionable value as a means for workers to assert influence over management through corporate governance arrangements. The majority report of a Australian Parliamentary Committee inquiry into ESOPs which was published in 2000 – *Shared Endeavours* – identified, in summary in terms of employee relations, that ESOPs were able to ‘align more closely the interests of employers and employees so that shareholding employees appreciate more directly the impact of management and work practices on efficiency, productivity and profitability’ (House of Representatives Standing Committee on Employment, Education and Workplace Relations, 2000: vii). From a review of the ESOP literature Lenne, Mitchell and Ramsay (2005: 11-12) noted that ESOP ‘may have the potential to increase union voice through shareholder activism, both in drawing attention to particular employee issues or even pursuing representation on the board of directors’ this was balanced by a number of difficulties especially the marginality of the relationship between an employee’s small shareholding and the firm, and that stock prices are affected by many variables not simply the performance of the workforce.

Against this context, this paper seeks to explore an avenue, or ‘lever’, for organised labour in Australia to pursue their voice in the twenty-first century in ways which fall outside the conventional industrial relations and political means. This discussion draws on the emerging developments in corporate social responsibility (CSR) and socially responsible or ethical investment (SRI). In essence, and as explained by Lewer, Burgess and Waring (2008), socially responsible investors, be it individuals or managed funds, are not solely focused on the return on investment but are motivated by broader environmental, social and governance issues which can include the employment relations practices of those firm being evaluated for investment. In effect, SRI seeks both financial *and* social returns on invested capital despite the ease of the former to calculate and the ambiguity and resistance to quantity of the latter (*ibid.*).

Corporations, arguably, are experiencing pressure to move beyond narrow shareholder based views of their aims and rationale – often this is discussed as a shift from ‘shareholder primacy’ to a ‘stakeholder’ view (see, for example, Marshall, Mitchell and Ramsay, 2008). An important element of the CSR movement is that of labour standards and codes of labour practice. Increasingly corporations, albeit from a low base, are being reviewed and evaluated by SRI funds in terms of their ability to comply with a range of social objectives including (sometimes) meeting minimum labour standards and acceptable employment conditions for their own employees and for their relational organisations in supply chains. SRI funds may deploy negative screens to exclude those firms in certain industries (tobacco, armaments etc) and those which, say, adopt anti-union strategies. Positive screens actively seek out firms which are environmentally friendly, and which, in terms of labour excel in affirmative action, recognise unions and the like. Australian Ethical Investments for example, a major SRI fund, screens for firms which encourage ‘the development of worker participation in the ownership

and control of their work organisation and practices' (Australian Ethical Investments Ltd., 2008). The US-based Domini Social Equity Fund, in terms of negative screens, evaluates the extent firms have a history of poor union relations, safety violations, if they had significantly downsized (by 25% or more in the past two years) and whether retirement pension plans were properly funded (cited in Waring and Lewer, 2004: 99).

From an investigation of the publically-accessible sections of industry superannuation fund websites, in effect those funds which have the support of the labour movement, the paper reports on the extent to which labour-related SRI screens informs the investment decisions of those funds.

Industry superannuation funds

There are two broad types of superannuation funds operating in Australia – for profit and not for profit. Retail funds run by banks are a prominent example of the for profit fund. They are distinct from 'not for profit funds' which redistribute returns to members, who are also the superannuants. Stemming from action by the ACTU and unions under the Accord with the federal Hawke government (and despite some opposition from employers and state governments), the industry based superannuation schemes were established in the mid 1980s (ACTU, 2004). Controlled by a Board of Trustees with equal numbers of employee or union and employer and representatives industry funds were 'regarded as a world first' (Nielson and Harris, 2008). (For a chronology of the development of superannuation in Australia see Nielson and Harris, 2008).

A complex web of rules oversee the establishment and conduct of superannuation funds however, the *Superannuation Industry Supervision Act, 1993* is the principal source of regulation. Section 3 states that the object of the legislation is to:

... [M]ake provision for the prudent management of certain superannuation funds, approved deposit funds and pooled superannuation trusts and for their supervision by the Australian Prudential Regulation Authority (APRA), Australian Securities and Investments Commission (ASIC) and the Commissioner of Taxation.

The Act sets out conditions for licensing such as reporting, membership, risk management, cancellation of a fund's license, taxation compliance, governance and the like. Governance is largely the responsibility of the Board of Trustees which, subject to the requirements of the fund's constitution, typically delegates investment to professional fund managers. Similarly, and in the manner of standard corporate practice, organisational operations - marketing, accounting, legal functions and the like - are also delegated to professional managers. Of course, and within the constraints imposed by the Act, the specific governing rules and form of operations may vary between funds.

Part 6 of the Act – 'Provisions relating to governing rules of superannuation entities' – deals with the obligations of trustees in the formulation of the fund's investment strategies. Section 52 is important for the arguments raised in this paper. Broadly, it requires that those responsible for the funds management adopt an investment strategy which satisfy a number covenants. Trustees must, *inter alia*:

- (b) exercise, in relation to all matters affecting the entity, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;
- (c) ensure that the trustee's duties and powers are performed and exercised in the best interests of the beneficiaries . . .

(f) formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the entity including, but not limited to, the following:

(i) the risk involved in making, holding and realising, and the likely return from, the entity's investments having regard to its objectives and its expected cash flow requirements . . .

We argue that, as a general proposition, these obligations are not infringed should an industry fund determine to adopt and/or to offer SRI-orientated funds management options to their members; the tests of acting prudently and 'in the best interests of the beneficiaries' are not infringed merely by virtue of utilising SRI funds. Members would have a reasonable expectation that investing in SRI funds would not be adventurist, i.e. expose the fund to risks beyond those predicted for non-SRI investments or produce significantly poorer returns. Without exploring the voluminous evidence and literature on the performance of SRI funds, recent data, for example, commissioned by the Responsible Investment Association of Australasia (2008) found that total funds in managed SRI-aligned portfolios in the period 2007-08 contracted from \$16.95 billion to \$15.73 billion. At the same time total managed investments fell by 9 per cent. SRI funds 'achieved' on average a 'negative return' of 7 per cent; an outcome which the report states 'indicates that they outperformed the average mainstream fund over time periods of 3 to 5 years to June 2008' (Responsible Investment Association Australasia, 2008: 4). Data cited by the ACTU holds that SRI funds deliver superior returns measured against fees: 'over the five year period to 30 June 2008, SuperRatings net benefit testing showed that Industry Super Funds on average delivered \$13.20 in earnings for every dollar taken out in fees, while Retail Master Trusts on average delivered only \$5.30' (http 1).

Survey methodology and results

This research sought to identify the industry superannuation funds currently in operation and examine the extent to which they give consideration to SRI issues in their investment strategy generally and, more specifically, whether labour standards and other industrial relations factors formed a component of their screens. Data was obtained through an investigation of the publicly accessible fields in the identified funds' websites which included some publically available publications. The research was conducted largely in October 2008. Plainly, this initial scoping phase of the research has considerable limitations. Accordingly, it is proposed that far more intensive data-gathering through semi-structured interviews with key informants from the funds supported by an analysis of the various trust arrangements and other documentary sources is needed.

First, the web search found that, as set out in Table 2, seventeen industry funds operate in Australia (it may be more). Combined, they have in the order of \$86 billion in funds under management sourced from the contributions of 4.7 million members and their employers. Some are multi-industry funds i.e. they accept membership from those across a range of industry sectors e.g. Australian Super and LUCRF; whereas others operate within one industry or sector such as NGS Super and MEDIA Super.

Table 2 – Industry Superannuation Funds (Australia) 2008

Fund	(Self) description	Members '000s	Assets under management
AUSTRALIAN Super	AustralianSuper is one of the largest, run-only-to-profit members Industry Super Funds that caters for employers and employees from any industry or profession in Australia.	1,300	\$28 billion

CBUS	Cbus is the industry fund focused on the construction, building and allied industries. Established in 1984, it has 60,000 participating employers.	500	\$13 billion
HESTA	More people in health and community services choose HESTA than any other super fund.	596	\$12.9 billion
HOSTPLUS	The national industry superannuation fund for hospitality, tourism, recreation and sport and SuperRatings Fund of the year 2007 and 2008.	898	\$7.5 billion
MTAA	MTAA Super is the Industry Superannuation Fund for those working in the motor and related industries and is also open to the general public.	280	\$6.1 billion
CARE Super	Est. 1986, CareSuper looks after over 220,000 managerial, administrative and professional employees across a range of industries Australia wide.	220	\$3.5 billion
NGS Super	NGS Super is the national industry fund designed for the education sector and related industries.	80	\$3 billion
MEDIA Super	Superannuation designed for people working in the print, media, entertainment and arts industries. Created after the merger of Print Super and Just Super.	110	\$2.6 billion
LUCRF	LUCRF Super is Australia's first industry fund and covers workers in all industries.	175	\$2.3 billion
TWU Super	TWUSUPER is the largest fund servicing the transport industry, returns all profits to members and is simple, sound and strong.	135	\$2.3 billion
FIRST Super	The Industry Super Fund for the timber, pulp & paper, furniture and furnishing industries.	77	\$1.5 billion
LEGAL Super	The industry super fund for Australia's legal community - created and managed by legal professionals to provide industry-leading services for the legal community.	37	\$1 billion
AUSTSAFE Super	Since 1988, AustSafe Super has provided superannuation and pension services to meet the unique needs of rural and regional Australians.	160	\$925 million
REI Super	National fund covering all employees in commercial and residential real estate - sales, administration, property management, etc.	32	\$760 million
FIN Super	A super fund specially designed for people working in the financial services and insurance industry.	32	\$540 million
SPEC Super	SPEC Super has been providing superannuation for people working in the electro-technology and allied industries for over 21 years.	23	\$445 million
AUST (Q) Super	The Construction, maintenance and allied industries fund in Queensland, one of only a few funds to have never credited negative returns to members.	19	\$171 million

Source: [http 2](#)

The industry funds' websites indicated just less than half gave consideration to socially responsibility factors when making investment decisions. Some funds were classified as *SRI insensitive* i.e. there was no obvious evidence which indicated that they give consideration to SRI or explicitly stated that SRI was not part of their investment strategy or member options. For example, according to FirstSuper 'Labour standards, and environmental or ethical considerations are not taken into account in the selection, retention or realisation of investments' ([http: 3](#)) A similar statement was expressed in the SPEC Super annual reports - 'Labour standards or environmental, social and ethical considerations are not taken into account in selecting, retaining or realising investments' ([http: 4](#)). Many funds provided no information about SRI investment in their websites included, for example, AsutQ, REI Super, AustCare Super, TWU Super, MTAA, HostPlus and Cbus.

There were eight funds which were classified as *SRI sensitive* - Australian Super, HESTA, Care Super, Media Super, Legal Super, NGS Super, LUCRF Super and FIN Super. These were divided into two groups. The first - labelled 'Indirect Consideration' - were those funds which provided SRI portfolio investment option(s) to members; educated them about SRI to guide decision making; and provided direct advice about how to make an informed SRI decision. For instance, Australian Super has a number of SRI funds, including Sustainable Balanced, Australian Sustainable Shares and International Sustainable Shares. Hesta has a fund called EcoPool; CareSuper has a sustainable balanced portfolio called 'Sustainable Growth' which aims to achieve relatively high returns in the medium to long-term investing in industries and companies that are considered to have a sustainable future on environmental and/or social grounds ([http 5](#)). Similarly, MediaSuper provides High Growth Sustainable Portfolio invested predominantly in Australian Shares, and LegalSuper offers a socially responsible investment option through AMP Capital ([http: 6](#)).

Also, the kind of information that funds provided to their members about their choices constitutes indirect consideration. For instance, it was suggested by one fund that investors desiring SRI could indirectly influence the management practices of organisations in which superannuation funds invested by choosing those organizations that reflected SRI principles. Similarly, all SRI investment portfolios were assigned a risk profile to guide the investment decisions made by members. Most of the SRI portfolios were share based and so were considered higher risk. Many were exposed heavily to Australian shares. Finally, some funds scaffolded the decision making practices of their members by instructing them in how to make an informed decision about whether to invest in an SRI portfolio or fund. Specifically, they were instructed to apply other criteria beyond just SRI to inform their decisions i.e. decide whether they would choose the option even if it was not an SRI option; consider the option's past investment performance; compare any costs associated with choosing an SRI option; evaluate how closely the values used to select the investment match their own; balance the level of risk they are comfortable with and the level of risk involved in the SRI option.

The second – labelled 'Direct Consideration' – refers to those funds which opted for SRI investments in their funds overall strategy. This was evidenced in the development of an SRI policy, formal memberships of SRI associations, the identification and application of SRI assessment criteria for screening purposes, and the seeking of SRI counsel from third parties with respect to advice and standards for practice.

A number of funds showed evidence of direct consideration in that they had developed specific policy statements regarding SRI. Some of these policies simply demonstrated an acknowledgement of the importance of SRI issues as consideration in investment decisions, but others go further and prescribe a particular course of action. For instance, CARE Super, acknowledges the need to consider environmental, social and corporate governance (ESG) issues, their impact on the performance of investments, society and the environment. It considers that it has a duty to act in the best long-term interests of fund members by making these considerations for investment. This is similar to Legal Super, who is to make Australian Share investment decisions based SRI considerations. However, LegalSuper's policy also outlines a strategy of regularly reviewing its investment decisions with respect to SRI. It suggests that a company that falls below SRI standards for investing is sold within six months.

Perhaps the most detailed policy was that of Australian Super. It has a SRI governance policy called the Australian Super: Environmental, Social & Governance (ESG) Investment Policy. In this policy, they indicate that they consider ESG as an investment-related risk and therefore

have a strategy for investment analysis, which includes ESG engagement with service providers (memberships of SRI associations/agencies); collaborative initiatives; and active engagement i.e. with listed fund managers with the purpose of them considering ESG investment issues in future investment decisions. They believe that SRI is compatible with their fiduciary duties toward their members. However, they indicate that SRI is not an end unto itself; rather, that 'ESG investment activities will be explored, but will not be undertaken at the expense of its fiduciary duty. Usual investment criteria applies'.

Several funds had specific SRI criteria that they used for assessing the suitability of particular shares or funds for inclusion in an SRI portfolio. One organisation in particular appeared to profile individual shares or organisations which satisfied their SRI criteria. This is the practice of Australian Super, which briefly profiled one of its investment funds managers called Perpetual Investments. In this profile, links were provided to the Perpetual site to allow the members to further review the SRI screen utilised by Perpetual. About Perpetual it says 'Its screening process is integrated into Perpetual's established Australian equity investment approach. Companies in the portfolio will have passed through both the quality and value filters and the Ethical SRI screens'. But unfortunately the link was not active, so, no further information could be gained about the criteria they used. A similar practice is adopted by HESTA which profiles one company Minara Resources. A detailed review is given of its SRI strengths and weaknesses as a justification of its investment in this company

Other organisations such as NGS, Hesta and Legal Super gave more detail of specific criteria they used. However, some of the criteria were more specific than others. For example, NGS provided some general criteria, including corporate governance and business ethics; environmental and social impacts of the company's operations and products; workplace issues including employee policies and occupational health and safety practices; community impacts and relations; human rights policies and practices. Legal Super's criteria was considerably more specific than other funds and involved rating each company on a two dimensional assessment matrix which considered industry by sustainability; and a company's corporate social responsibility – assessing its workplace, community, value chain (including corporate governance and business ethics) and environmental issues, with each factor typically given a similar weighting. Finally, Hesta assessed on a range of factors including whether they are involved in government programs to reduce emissions and environmental damage, whether they are meeting industry environmental codes of practice and whether there is any evidence of environmental breaches or fines.

Many of the industry funds identified were members of third party associations and agencies which provided accreditation and advice to the funds. For instance, one such body was the United Nations Principles for Responsible Investing (UNPRI). The objective on the UNPRI is to develop and implement a set of global principles that facilitate the integration of Environmental, Social and Governance (ESG) issues into mainstream investment practices. It has over 200 signatories worldwide, controlling over US\$9 trillion. It has a set of six principles for investment funds that facilitate the integration of ESG into mainstream investment practices including: Incorporate ESG issues into investment analysis and decision-making processes; be active owners and incorporate ESG issues into our ownership policies and practices; seek appropriate disclosure on ESG issues by the entities in which we invest; promote acceptance and implementation of the principles within the investment industry; work together to enhance our effectiveness in implementing the Principles; each report on our activities and progress towards implementing the Principles. Australian industry fund members of UNPRI include Australian Super and CareSuper.

Another was the Australian Council of Super Investors (ASCI). Its role is to provide industry funds with independent research, information and recommendations in relation to good corporate governance practices www.acsi.org.au. Specifically, to equip trustees with the tools to develop and implement a corporate governance policy; keep trustees up-to-date on corporate governance practices of listed companies so that trustees can effectively manage investments risks; provide trustees with regular publications including newsletters, research papers, codes of conduct and best practice guides. Members included CareSuper and AustralianSuper.

Other organisations to which the industry funds were members included the Responsible Investment Association of Australasia (the peak body for professionals working in responsible investment) and the United Nations Environment Programme Finance Initiative.

There was some evidence, that as well as holding memberships with third party organisations, some industry funds also sought specific input from third party sources to guide their SRI practices. As an example, LegalSuper used established standards for practice developed by third parties including: The Social Accountability 800 standards and International Labour Organization Core Labour standards; ISO 14001 environmental management standard and CERES principles for environmental awareness and accountability; OECD Guidelines for Multinational Enterprises for corporate practices; and the Global Reporting Initiative for sustainability reporting. Similarly, Hesta consults reporting agencies about 'Ecoratings' of different funds. For instance, the Australian shares component of the Eco Pool is currently managed by BT Funds Management with the ratings research conducted by Monash Sustainability Enterprises. Monash conducts research on the ASX200 using questionnaires, site visits, interviews and corporate environmental reports. Its international shares component of the Eco Pool is currently managed and rated by Ausbil Dexia. MSE's ratings process involves three key steps: 1. Researching industry background and identifying key sector-specific risks, 2. legislation, codes of practice, and international best practice examples for managing these risks. 3. Identification of how companies manage environmental and social issues through analysis of publicly available information, such as annual financial and industry performance data

In terms of whether there was evidence that Australian industry superannuation funds gave direct SRI consideration to labour standards and practices as part of their investment decisions only three cases were identified. Hesta's 'Eco-Pool' fund consults reporting agencies about 'Ecoratings' of different funds based on a rating of occupational health and safety performance and recruitment practices. This data is sourced from OHSE reports, industry performance data such as OHS claims performance, as well as the print and electronic media. LegalSuper also claim that they give consideration to industrial relations issues which formed part of their SRI criteria. It suggests that it makes Australian share investment decisions based on labour standards in addition to environmental, social and ethical considerations. NGS was the only other fund that outwardly gave consideration to these issues. It analyses workplace issues such as employee policies and occupational health and safety practices.

Discussion

In an address to the National Press Club in March 2008 entitled 'Building a fairer Australia: the role of unions and workers' rights', Jeff Lawrence, the ACTU Secretary enunciated the peak union body's commitment to pursuing 'new community standards in our workplaces'. These included, *inter alia*, 'enhancing the say of workers in the workplace and . . . giving workers a say in how they achieve greener workplaces' (ACTU, 2008). Obviously, voice and governance matter. To achieve this 'say', the analysis articulated in this paper suggests that some utility may be available by bipartisan industry superannuation funds more deliberately

seeking to encourage and reward, through investment decisions, those firms which satisfy SRI industrial relations screens.

The opportunity to leverage better employment relations in firms in Australia and globally through the SRI-informed decision making of industry funds is consistent with the ACTU's commitment to the ongoing development of these funds. At the 2003 Congress (the most recent review of its policy) the ACTU confirmed its longstanding support of industry funds 'as offering the best combination of good returns, low fees and effective service to workers and their families' (ACTU, 2003). However, as to how industry superannuation funds should invest, the ACTU's 2003 policy is not prescriptive; rather, the relevant sections note the potential social benefits which could be derived from targeted SRI informed investments. Overall, the policy falls well short of calling for a more concerted approach by the funds. It states (ACTU, 2003), *inter alia*, that:

16. Congress also notes the growing evidence that company performance is assisted by good governance practices, and by adherence to appropriate labour, social and environmental standards.

At the National Press Club in May 2007, Garry Weaven, who significantly contributed to the original establishment of industry superannuation as a former assistant secretary of the ACTU, did not refer to labour standards in his speech on 'Superannuation and the National Interest'. Instructively Weaven confined his analysis of SRI related issues to environmental concerns – predominately greenhouse gases and water shortages. Asked in the question time about SRI issues – 'ethical investments and the policies that perhaps super funds might take' - he ignored labour standards and, in brief, commented (ACTU, 2007)

I think industry funds, above anyone else, are likely to be very rational about their approach to corporate governance and the reason for that's very simple when you think about it. The Boards of industry funds are made up of representatives of employer associations and typically of employees or of their unions. So they're a very balanced Board and quite wary of any agendas that might be out of kilter . . . That means they are very likely to take the middle social ground on these issues . . . I think industry funds are likely to be a very, very rational and on balance mildly progressive force in corporate governance.

Although, Weaven's statement is anecdotal it is not inconsistent with the general sentiments of the ACTU's policy which acknowledge SRI issues but which appear to be reluctant in directly encouraging such investments, i.e. to accept being in 'the middle ground, to be 'mildly progressive'. As this preliminary research suggests, according to their websites, only half of the industry funds appear to be SRI-sensitive and of those only a few actively promote SRI options directed at labour standards, an outcome not inconsistent with the ACTU's current policy standings.

We acknowledge that SRI is not without its distracters (for a review of the debate see, for example, Kirby, 2006) but more importantly there is empirical evidence analysing the impact of SRI funds screening of firms' decision-making over industrial relations and related issues which, in summary, shows a high potential but generally modest impact on firms' behaviour (Lewer, Burgess and Waring, 2008). Waring and Lewer (2004: 106) argue that the it is unclear whether the impact of SRI on day-to-day industrial relations practices would 'assert the same authority as well conceived regulation or an assertive trade union' but in facing a new century in which both forces are under challenge, perhaps industry funds may provide a lever to redress some of the balance.

References

- ABS (2005) *Australian Labour Market Statistics*, Catalogue No. 6105.0, Canberra.
- ACTU (2003) *Congress 2003*, available at www.actu.asn.au/Images/Dynamic/attachments/146/Congresspercent20Policypercent20Documentpercent202003.pdf, accessed 1 November.
- ACTU (2004) *The History of Cbus*, available at www.actu.asn.au/super/about/history_cbus.html, accessed 6 November.
- ACTU (2007) Speech to the National Press Club by Garry Weaven, available at www.memberconnect.com.au/Images/Dynamic/attachments/6170/Jeff-Lawrence-NPC-FINAL.pdf, accessed 1 November.
- ACTU (2008) Speech to the National Press Club by Jeff Lawrence, available at www.memberconnect.com.au/Images/Dynamic/attachments/6170/Jeff-Lawrence-NPC-FINAL.pdf, accessed 1 November.
- Australian Ethical Investments Ltd. (2008) *The Australian Ethical Charter*, available at www.austethical.com.au/company_information/australian_ethical_charter.
- Bray, M., Le Queux, S., Waring, P. & Macdonald, D. (2001) *The 'Representation Gap' in Australia*, Employment Studies Centre, University of Newcastle.
- Bickerdyke, I., Lattimore, R. & Madge, A. (2001) 'Safeguards for Worker Entitlements', *Agenda*, 8, 2, 155-170.
- Burgess, J., Lewer, J. & Waring, P. (2006) 'Protecting Employee Entitlements: Corporate Governance and Industrial Democracy in Australia', *Australian Bulletin of Labour*. 32, 4, 365-380.
- Davis, K. & Burrows, G. (2003) 'Protecting Employee Entitlements', *Australian Economic Review*, 36, 2, 173-180.
- Forsyth, A. (2006) 'The "transplantability" debate revisited: Can European social partnership be exported to Australia?', *Comparative Labor Law and Policy Journal*, 27 (3) 305-56.
- House of Representatives Standing Committee on Employment, Education and Workplace Relations (2000) *Shared Endeavours - an Inquiry into Employee Share Ownership in Australia* (Majority Report).
http 1 www.memberconnect.com.au/actusupersite/aboutsuper/typesofsuperfunds.aspx
http 2 www.industrysuper.com/choose-a-fund/choose-a-fund, accessed 15 October
http 3 www.firstsuper.com.au/pdf/FIRSTSUPER_Product_Disclosure_Statement.pdf.
http 4 www.specq.com.au/pdf/PDF-046-Annualpercent20Reportpercent202008.pdf
http 5 www.caresuper.com.au/investments_member-investment-options_details.aspx?view=5
http 6 www.legalsuper.com.au/check-latest-investment-performance/investment-options/socially-responsible-sri/index.cfm
- Kirby, J. (2006) 'The Myth of Ethical Investment', *The Monthly*, July.
- Lenne, J., Mitchell, R. & Ramsay, I (2005) *Employee Share Ownership Schemes in Australia: A Survey of Key Issues and Themes*, Centre for Corporate Law and Securities Regulation and Centre for Employment and Labour Relations Law, The University of Melbourne.
- Lewer, J., Burgess, J. & Waring, P. (2008) 'Does Socially Responsible Investment Influence Employment Relations?', in S. Marshall, R. Mitchell and I. Ramsay (Eds.) *Varieties of Capitalism, Corporate Governance and Employees*, Melbourne University Press, Melbourne, 221-224.
- Marshall, S., Mitchell, R. & Ramsay, I (Eds.) *Varieties of Capitalism, Corporate Governance and Employees*, Melbourne University Press, Melbourne.
- Nielson, L & Harris, B. (2008) *Chronology of Superannuation and Retirement Income in Australia*, Australian Parliamentary Library, available at www.aph.gov.au/library/pubs/BN/2008-09/Chron_Superannuation.htm, accessed 4 November.
- Waring, P. Lewer, J. & Burgess, J. (2008) 'The Corporate Social Responsibility Movement: A New Actor in Employment Relations?' in G. Michelson, S. Jamieson and J. Burgess (Eds.) *New Employment Actors: Developments from Australia*, Peter Lang, Bern, 195-222.
- OECD (2004) *Trade union density (per cent) in OECD countries, 1960-2002*, available at www.oecd.org/document/4/0,3343,en_2649_33729_38939524_1_1_1_1,00.html, accessed 6 November 2008.
- Garnaut, J. & O'Malley, N. (2005) 'Unions on death row, says minister', *The Sydney Morning Herald*, 5 February.
- Responsible Investment Association Australasia (2008) *Responsible Investment: A Benchmark Report*, available at www.eia.org.au, accessed 13 November.
- Towers, B. (1997) *The Representation Gap: Change and Reform in the British and American Workplace*, Oxford University Press, Oxford.
- Waring, P. & Lewer, J. (2004) 'The impact of socially responsible investment on human resource management: A conceptual framework', *Journal of Business Ethics*, 52, 1, 99-108.