



29 September 2022

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Treasury  
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Dear Sir/Madam,

**SMSF ASSOCIATION SUBMISSION – LEGISLATING THE OBJECTIVE OF SUPERANNUATION EXPOSURE DRAFT**

The SMSF Association welcomes the opportunity to provide this submission in response to the exposure draft legislation for the Government’s proposal to legislate the objective of superannuation.

We thank Treasury for their engagement and response to feedback provided on the objective of superannuation consultation paper, adopting recommendations to:

1. Legislate the objective in standalone legislation.
2. Ensure the objective is clear and self-contained with clear definitions, operative and interpretive provisions.
3. Make clear that the objective is to apply solely in the context of policy design and implementation only and does not affect the operation of existing laws. This ensures it does not extend beyond this remit to other stakeholders such as regulators or superannuation trustees and does not change the operation or interpretation of existing superannuation law, prudential standards or governing rules of superannuation entities.

*Role of Superannuation in the Broader Retirement Ecosystem*

To ensure suitability of purpose, the policy settings are in need of further refinement. Superannuation is just one component of a broader retirement ecosystem system. The framing of the Retirement Income Review and the final report highlights the importance of considering the broader policy impacts across the entire retirement system. The final report recommended the introduction of an objective for the broader retirement income system.

What is proposed, is an objective which focuses on a single element of the retirement income system. While the explanatory materials acknowledge three retirement income pillars, the broader retirement system (including aged care and housing security, addressed by the *Retirement Income Review*) are not contemplated in the operation of the objective of superannuation.



An objective that considers superannuation in isolation of the other retirement pillars risks distorted outcomes and negative impacts over the medium and long term. All future superannuation policies and their impacts must be assessed with proper consideration, and clear analysis of the outcomes and effects within the broader retirement system remit. It must extend beyond a single element such as tax concessions.

#### *Sustainability*

The current legislative framework is highly complex and a product of a proliferation of changes over time. Superannuation would benefit from simplification and the removal of red tape, rather than persistent changes. Superannuation needs stability, consistency, and certainty. Continual changes to the superannuation system adds complexity to what is an already complex system. This erodes confidence and trust in the system, impacting the sustainability of the superannuation system through increased costs and a decline in engagement.

The Financial System Inquiry noted:

*The lack of clarity around the ultimate objective of superannuation policy contributes to ad hoc short-term policy making, which imposes unnecessary costs on superannuation funds and members, reduces long-term confidence in the system and impedes efficiency.<sup>1</sup>*

We recommend that the concept of *sustainable* in the exposure draft explanatory materials is expanded beyond taxation and fiscal considerations. The addition of further complexity and red tape is detrimental to the system and must be actively discouraged.

#### *Statement of Compatibility*

The objective of superannuation should not operate as a mechanism to allow continued changes or act as a means to justify any Government's short-term policies without proper consideration of the medium and long-term effects and consequences.

We note that objective will require a statement of compatibility that includes an assessment of whether a Bill or Regulations are compatible with the objective of superannuation. For transparency, it is integral that a genuine assessment is made and included within the statement of compatibility to the respective Bill.

The underlying policy need must be clearly articulated and supported alongside considered analysis on how it satisfies the objective of superannuation. This includes the publication of all relevant data and modelling.

Standardised or templated responses such as those used for the Statement of Compatibility with Human Rights must be prohibited.

#### *Consultation Process*

Documents including consultation and discussions papers, and exposure draft legislation or regulations, should include a discussion on the underlying policy and its compatibility with the objective of superannuation. The consultation process must then enable stakeholders to consider the proposed changes, underlying policy, and provide feedback on the compatibility with the objective of

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<sup>1</sup> *Financial System Inquiry* (Final Report, November 2014) 25.



superannuation. This feedback must be considered as part of the consultation process, and be publicly reported alongside published submissions, before proceeding with proposed measures.

We welcome the opportunity to further discuss our submission. Please do not hesitate to contact us.

Thank you again for the opportunity to provide this submission.

Yours sincerely,

Peter Burgess  
Chief Executive Officer

#### **ABOUT THE SMSF ASSOCIATION**

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.