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**SUBMISSION TO
THE SENATE ECONOMICS
COMMITTEE INQUIRY INTO THE
SUPERANNUATION (OBJECTIVE)
BILL 2016 [PROVISIONS]**

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SUBMISSION TO THE SENATE ECONOMICS COMMITTEE INQUIRY INTO THE SUPERANNUATION (OBJECTIVE) BILL 2016 [PROVISIONS]

Brett Hogan, Director of Research

About the author

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Contents

Request for Submissions	4
1. Introduction and Budgetary Context	5
2. Recently Legislated Changes	6
3. Primary Objective of Superannuation	7
4. Hostile Description of ‘Concessions’	10
5. Timing of this Inquiry	11
6. Change from the Exposure Draft	12
7. Future Changes and Summary	12

Request for Submissions

On 14 November 2016, the Secretary of the Senate Economics Legislation Committee wrote to the Institute of Public Affairs, inviting it to make a submission to an inquiry into the Superannuation (Objective) Bill 2016.

In his letter, the Secretary noted that this Bill:

establishes a legislative framework to guide the development of future superannuation policy. It does this by enshrining in law that the primary objective of the superannuation system is to provide income in retirement to substitute or supplement the age pension. It requires new bills and regulations relating to superannuation to be accompanied by a statement of compatibility with the objective of the superannuation system. The subsidiary objectives of the superannuation system will be prescribed by regulation.

The Committee is due to report to the Senate by 14 February 2017, with submissions due by Saturday 31 December 2016.

On 16 September 2016, the Institute of Public Affairs made a submission to the Treasury Department's consultation on the Exposure Draft of the same Bill, which was then being considered along with the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016.

While the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 was passed by the Senate on 23 November 2016, the Institute of Public Affairs is pleased to again have the opportunity to reiterate its position on the proposed new objective.

1. Introduction and Budgetary Context

Superannuation lies at the heart of important national policy questions about taxes, spending, personal responsibility and the role of government.

Almost a quarter of a century after the introduction of compulsory superannuation, four out of five Australians do not have enough savings to fully fund their retirement.

Yet rather than identify new ways to encourage all Australians to put more money into their retirement accounts, the bipartisan approach of national policy makers is to treat the \$2 trillion worth of private superannuation funds as just another source of taxation revenue.

For all the talk of ‘fairness’ and desire to rein in so-called ‘tax concessions,’ in reality it is out-of-control government spending and the desire to increase taxation revenue that is driving these changes.

Australian Government spending has increased ¹ from \$271.8 billion per year in 2007-08 or 23.1% of Gross Domestic Product (GDP), to \$441 billion in 2016-17 or 25.2% of GDP.

In 2019-20, spending is expected to almost pass \$500 billion for the first time. So while it took 107 years for federal government spending to reach \$271 billion it will take only a little over twelve years more to reach \$500 billion and according to trend a total of only fourteen years to double it to \$542 billion.

Additionally, sometime shortly after 30 June 2017, Australian Government Gross Debt is expected to pass \$500 billion for the first time. Gross debt on 30 June 2007 was only \$53.2 billion. ²

The Government should not seek to resolve these imbalances by raising taxes to ‘chase spending,’ as former Treasurer Peter Costello was quoted as saying in September. ³

1 Australian Government, Mid-Year *Economic and Fiscal Outlook 2016-17*, pp. 266-267

2 Ibid. p 275

3 The Australian, “Peter Costello’s Blast: Liberal Party Lacks Clear Vision,” 10 September 2016, <http://www.theaustralian.com.au/news/nation/peter-costellos-blast-liberal-party-lacks-clear-vision/news-story/3e8974f875d3f85873eb2fb8d73a5c5d>, Viewed 9 December 2016

2. Recently Legislated Changes

On Budget Night, 3 May 2016, the Australian Government announced a swathe of new changes to the taxation and regulatory treatment of superannuation, designed to raise \$2.9 billion net over four years.

While most of these changes have now become law following the passage through the Senate of the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 on 23 November 2016, the Institute of Public Affairs would like to again register its opposition to:

- reducing the threshold for the 30% contributions tax from \$300,000 per year to \$250,000 per year;
- reducing the pre-tax contributions limits from \$30,000 and \$35,000 to \$25,000 per year;
- limiting the amount of money that can be transferred into a retirement account to \$1.6 million; and
- a new \$100,000 annual limit on post-tax superannuation contributions (originally announced as a \$500,000 lifetime post-tax contributions limit backdated to 2007 but replaced on 15 September 2016).

Restrictions on the amount of money that can be transferred into, or remain within, retirement accounts, undermine the ability of the system to provide comfortable retirement incomes.

3. Primary Objective of Superannuation

In his Budget Speech on 3 May, the Treasurer said that *“becoming financially independent in retirement, free of welfare support, is one of life’s great challenges and achievements.”*⁴

The Institute of Public Affairs wholeheartedly agrees.

However, notwithstanding this philosophically sound statement, the Treasurer that evening issued a joint Media Release with then Assistant Treasurer Kelly O’Dwyer to announce that the Government would *“enshrine in law that the objective for superannuation is to provide income in retirement to substitute or supplement the Age Pension.”*⁵

Tellingly, this Release also noted that the proposed objective *“has been an important anchor for the development of the superannuation changes included in the Budget.”*

According to section 5⁶ of the Superannuation (Objective) Bill 2016, and Treasurer Morrison’s 9 November 2016 Second Reading Speech,⁷ the Government is proposing that this is now to be the ‘primary objective’ of the superannuation system.

Section 6 states that any subsequent legislation relating to superannuation that is introduced to Parliament must include *“an assessment of whether the Bill is compatible with: a) the primary objective of the superannuation system; and b) the subsidiary objectives of the superannuation system.”*⁸

While the Bill spells out that the primary objective is to *“provide income in retirement to substitute or supplement the age pension,”* it specifies that the *“subsidiary objectives of the superannuation system are the matters prescribed by the regulations.”*⁹

4 Hon. Scott Morrison MP, 2016 Budget Speech, <http://www.budget.gov.au/2016-17/content/speech/html/speech.htm>, Viewed 9 December 2016

5 Hon. Scott Morrison MP & Hon. Kelly O’Dwyer MP Joint Media Release, “A More Sustainable Superannuation System,” 3 May 2016, <http://sjm.ministers.treasury.gov.au/media-release/053-2016/>, Viewed 9 December 2016

6 Superannuation (Objective) Bill 2016, http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r5762_first-reps/toc_pdf/16173b01.pdf;fileType=application%2Fpdf, Viewed 9 December 2016

7 Hon Scott Morrison MP, Second Reading Speech, Superannuation (Objective) Bill 2016, 9 November 2016, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansardr%2Fe089c8c3-75b7-4858-80ac-58b4e4c6e749%2F0157%22>, Viewed 9 December 2016

8 Superannuation (Objective) Bill 2016, http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r5762_first-reps/toc_pdf/16173b01.pdf;fileType=application%2Fpdf, Viewed 9 December 2016

9 Ibid. Section 5

The five proposed ‘subsidiary objectives,’ which can be found in the Explanatory Memorandum,¹⁰ are worth highlighting:

- facilitate consumption smoothing over the course of an individual’s life;
- manage risks in retirement;
- be invested in the best interests of superannuation fund members;
- alleviate fiscal pressures on Government from the retirement income system; and
- be simple, efficient and provide safeguards.

Although the Government appears to have adopted the primary and subsidiary objectives from the Final Report of the 2014 Financial System Inquiry (FSI),¹¹ it is noteworthy that the FSI actually made six subsidiary objective recommendations, with the Government choosing to leave out that the system:

- be fully funded from savings.

In referring to this objective in its Final Report, the FSI said that:

“A fully funded system, as opposed to an unfunded system, is important for sustainability and stability. The system is designed to be predominantly funded by savings from working life income and investment earnings, where superannuation fund members in general have claims on all assets in the fund.”

Concepts such as facilitating consumption smoothing, investing in the best interests of members and managing risks in retirement, let alone that the system be fully funded from savings, actually make a lot more sense than the proposed primary objective ‘to substitute or supplement the Age Pension.’

Yet it is the proposed primary objective that will likely be the major reference point for the superannuation system, and against which all subsequent proposals for change will be judged.

It is of the gravest concern that maximising personal income in retirement is not deemed to be the primary, or even a subsidiary, objective of the system.

The OECD has found¹² that the net pension replacement rate for average income earners in Australia is only 58 per cent (53.4 per cent for women) when the generally accepted benchmark is 70 or 80 per cent.

Australia’s 2014 National Commission of Audit reported that¹³ the proportion of retirees on a full or part pension was expected to remain at around 80 per cent over the next three decades.

10 Explanatory Memorandum, Superannuation (Objective) Bill 2016, Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016, Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016, http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5762_ems_3e13dbab-f4b3-41a3-95c8-204b79c1ed92/upload_pdf/16172_173_174EM.pdf;fileType=application%2Fpdf, Viewed 9 December 2016

11 Commonwealth of Australia, *Financial System Inquiry Final Report*, November 2014, http://fsi.gov.au/files/2014/12/FSI_Final_Report_Consolidated20141210.pdf, Viewed 9 December 2016

12 Organisation for Economic Co-operation and Development, *Pensions at a Glance 2015*, <http://www.oecd.org/publications/oecd-pensions-at-a-glance-19991363.htm>, Viewed 9 December 2016

13 Australian Government, *National Commission of Audit 2014*, Chapter 7.1: Age Pension, <http://www.ncoa.gov.au/report/phase-one/part-b/7-1-age-pension.html>, Viewed 9 December 2016

According to the Government's own Budget Papers,¹⁴ the cost of 'Income Support for Seniors' was \$43.2 billion in 2015-16 and is projected to reach \$51.8 billion just four years later.

Superannuation initiatives that are implemented under the auspices of the proposed primary objective are unlikely to help middle-income earners to significantly boost their income in retirement or to allow large numbers of Australians to move off the full or part Age Pension.

Instead of proposing that the goal of the superannuation system is merely to take the place of or top up the Age Pension, the aim should be to maximise the retirement incomes of all Australians, and reduce dependence on welfare payments.

To this end, the Institute of Public Affairs would like to offer an alternative Primary Objective for the superannuation system:

"The objective of the superannuation system is to ensure that as many Australians as possible take personal responsibility for funding their own retirement. The Age Pension provides a safety net for those who are unable to provide for themselves in retirement."

The Institute of Public Affairs is happy to support the adoption of all six of the FSI's subsidiary objectives, if the primary objective is so amended.

Given that a bad objective is worse than no objective at all, the second-best option would be to make no change.

14 Australian Government, *Budget Paper No. 1: Budget Strategy and Outlook 2016-17*, p 5-26

4. Hostile Description of ‘Concessions’

Every January, the Treasury Department publishes a ‘Tax Expenditures Statement,’ an Orwellian term for a document that tallies up of the extra money it believes it should receive by way of higher taxes or abolishing rebates or deductions, allowing it and other advocates to promote the concept of ‘tax concessions.’

So for instance, Treasury costs the exemption of the sale of a family home from capital gains tax and fresh food from the GST as \$25 billion and \$7 billion annual ‘concessions.’¹⁵

It is in this context that Treasury’s characterization of the 15 per cent tax rate on employer superannuation contributions and superannuation fund earnings as \$16.2 billion and \$13.5 billion ‘concessions’ gains currency in the public domain.

A tax that is not as high as Treasury would like it to be, or that doesn’t exist in the first place, is not a concession – it is a low or non-existent tax whose absence probably serves another purpose.

In this context, the rhetoric of the 364-page Explanatory Memorandum, which claims that the proposed objective *“clarifies that the role of the superannuation system is to assist individuals to support themselves by providing income to meet their expenditure needs in retirement, rather than being a concessionally taxed investment vehicle for tax minimization and estate planning”*¹⁶ is telling.

The Age Pension is an inappropriate benchmark of adequate retirement income. A social safety net should not be held out as an ideal goal for individuals in a private market.

15 Australian Government, The Treasury, Tax Expenditures Statement 2015, 29 January 2016, <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2016/TES-2015>, Viewed 9 December 2016

16 Explanatory Memorandum, Superannuation (Objective) Bill 2016, Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016, Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016, p.27, http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5762_ems_3e13dbab-f4b3-41a3-95c8-204b79c1ed92/upload_pdf/16172_173_174EM.pdf;fileType=application%2Fpdf, Viewed 9 December 2016

5. Timing of this Inquiry

The Superannuation (Objective) Bill 2016 was introduced into the House of Representatives on 9 November 2016 along with the Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016 and the Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016.

All three pieces of legislation were referred to the Senate Economics Legislation Committee on 10 November, however the reporting date for the latter two Bills was 23 November and they were formally introduced into the Senate, debated and passed that same day.

While the Institute of Public Affairs appreciates the opportunity to make a submission on the Objective Bill, it is undesirable that the legislation giving effect to these objectives has already been passed, particularly when the Treasurer made a reference to the primary objective in his Second Reading Speech for the main, Fair and Sustainable Superannuation, Bill.¹⁷

In his Second Reading Speech for the Objective Bill, the Treasurer also said that the proposed objective *“has been an anchor for development of the superannuation package announced in the 2016-17 budget.”*¹⁸

The Institute of Public Affairs notes however that the Government allowed only nine days between the release of the earlier Exposure Draft legislation on both the objectives and the provisions (Wednesday 7 September) and the close of submissions (Friday 16 September)¹⁹ and that the revised package was announced on 15 September while this consultation period was still live.²⁰

In contrast, the formal consultation period on proposed changes to the Working Holiday Maker Visa Scheme (also known as the Backpacker Tax) ran from mid-August to mid-September, which would have assisted that review to receive over 1,700 submissions.²¹

Considering the important retirement incomes, taxation, welfare and social policy issues that are involved, a longer consultation period on the initial and subsequent superannuation legislation may have resulted in additional, and more detailed, feedback.

17 Hon Scott Morrison MP Second Reading Speech, Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016, 9 November 2016, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F089c8c3-75b7-4858-80ac-58b4e4c6e749%2F0161%22>, Viewed 9 December 2016

18 Hon Scott Morrison MP Second Reading Speech, Superannuation (Objective) Bill 2016, 9 November 2016, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F089c8c3-75b7-4858-80ac-58b4e4c6e749%2F0157%22>, Viewed 9 December 2016

19 Australian Government, Department of the Treasury Consultation Hub, Superannuation Reform Package, <https://consult.treasury.gov.au/retirement-income-policy-division/superannuation-reform-package/>, Viewed 9 December 2016

20 Hon Scott Morrison MP & Hon Kelly O'Dwyer MP Media Release, “Even Fairer, More Flexible and Sustainable Superannuation, 15 September 2016, <http://sjm.ministers.treasury.gov.au/media-release/096-2016/>, Viewed 9 December 2016

21 Australian Government, Department of Agriculture and Water Resources website, “Working Holiday Maker Visa Review,” <http://www.agriculture.gov.au/ag-farm-food/working-holiday-maker-review/submissions>, Viewed 9 December 2016

6. Change from the Exposure Draft

The Institute of Public Affairs notes the small changes that have been made between the publication of the Exposure Draft ²² in September and the Bill introduced to the Parliament on 9 November.

In particular the incorporation of a reference to the existence of subsidiary objectives in the body of the legislation and a provision that statements of compatibility that are prepared in respect of a future Bill or regulation that relates to superannuation, must include compatibility assessments with both the primary and subsidiary objectives.

However, while it is a positive development that some acknowledgement of the subsidiary objectives has been made, the primary objective is still pre-eminent, specified in the proposed legislation and undesirable.

7. Future Changes and Summary

If it is confirmed that the objective of the nation's superannuation system is merely to provide income in retirement to substitute or supplement the Age Pension, then the taxation and regulatory proposals announced in the 2016 Budget, amended on 15 September and passed by the Senate on 23 November 2016 will be the first of many.

Policymakers shouldn't be asking how the superannuation system can better support government spending, or more stringently punish those who seek to take care of themselves.

It should be about how our society can encourage more people to take responsibility for their own lives, maximize every Australian's retirement income and reduce the cost of welfare.

Once the principle has been established that superannuation taxes can be increased to pay for government spending, that all major parties have voted for it, and that it doesn't even contradict the objectives of the system, then there will be little to stop future governments.

As future governments continue to struggle to find the money to pay for their own promises, superannuation tax rates will continue to go up and the applicable thresholds will continue to come down.

This flawed approach to superannuation policy, which is also evident in the proposed primary objective, will permanently damage trust and confidence in the superannuation system.

²² Superannuation (Objective) Bill 2016 Exposure Draft, https://consult.treasury.gov.au/retirement-income-policy-division/superannuation-reform-package/supporting_documents/Exposure_Draft_Superannuation_Objective_Bill.pdf, Viewed 9 December 2016

