



Mr Mark Fitt

Committee Secretary

Senate Standing Committee on Economics

PO Box 6100

Parliament House

Canberra ACT 200

3 October 2019

Dear Mr Fitt,

Treasury Laws Amendment (Recovering Unpaid Superannuation) Bill 2019.

This submission has been lodged on behalf of the 905,000 Australians who are members of **Defined Benefit** superannuation funds.

The trustees of **Defined Benefit** superannuation fund hold **\$316 Billion** on trust for **Defined Benefit** superannuation fund members.

Refer to Section 6A of the *Superannuation Guarantee (Administration) Act 1992* for “**Interpretation: defined benefit superannuation scheme**”.

Members of **Defined Contribution** superannuation fund have individual investment accounts into which employers are supposed to make regular contributions in accordance with the Superannuation Guarantee.

Members of **Defined Benefit** superannuation funds do not have individual investment accounts. Instead, the trustee draws funds from a common asset pool and makes payments based on formulae contained in the *Governing Rules* of the fund.

The sponsoring employer has a contractual obligation to make periodic employer contributions into the common asset pool.

However, it is not difficult for employers to avoid making these payments so that fund members and beneficiaries either receive no benefits at all or if they do receive benefits as low as 20% of their lawful entitlements.

Most **Defined Benefit** funds have been closed to new members.

Since many more Australians are now members of **Defined Contribution** funds is it easy to overlook the 905,000 Australians who are still members of **Defined Benefit** funds.

Unscrupulous employers will also seek to take advantage of a growing lack of interest in **Defined Benefit** funds and will avoid making the necessary employer contributions to the fund paying benefits to former employees.

Employer contributions to **Defined Benefit** superannuation funds are not made on the same regular basis as are contributions to individual member accounts in **Defined Contribution** funds. This makes it much easier for unscrupulous employers to avoid detection by the ATO and other regulators.

It is therefore important that the *Treasury Laws Amendment (Recovering Unpaid Superannuation) Bill 2019* is amended so that the non-payment or underpayment of employer contributions to **Defined Benefit** funds does not slip through a loophole in this important legislation.

Employers who seek to cheat their current and former employees out of their lawful superannuation entitlements (*deferred pay*) should be subject to the same punishment whether those current or former employees are members of a **Defined Contribution** superannuation fund or a **Defined Benefit** superannuation fund.

Superannuation is compulsory in Australia and the punishment should fit the crime.

There is extensive employee and member disengagement in superannuation since employees do not see the money that should be going into their superannuation scheme.

This disengagement can be so easily exploited.

Yours Sincerely

Phillip Charles Sweeney