13 March 2019

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Email: economics.sen@aph.gov.au

Dear Sir/Madam,

SMSF ASSOCIATION SUBMISSION ON TREASURY LAWS AMENDMENT (2019 MEASURES NO. 1) BILL 2019

The SMSF Association (SMSFA) welcomes the opportunity to make a submission to the Senate Standing Committee on Economics inquiry into Treasury Laws Amendment (2019 Measures No. 1) Bill 2019. We believe increasing the maximum number of members from four to six in an SMSF will provide additional flexibility and choice in the superannuation system.

Currently, most three and four member SMSFs have been established to allow all the members of a family to be in the same SMSF or to pool superannuation balances together to purchase a large asset such as a real property. Typically, this involves small business owners shifting their business premises (known in the *Superannuation Industry (Supervision) Act 1993* as "business real property") to their SMSF.

Increasing the maximum number of SMSF members to six will allow families with five and six members the ability to establish an SMSF together or allow the remaining members of a family to join an SMSF, which currently is an unavailable option to larger families.

From an intergenerational perceptive, if children have knowledge about and are part of how their parents' affairs, finances and superannuation are being managed, this familiarity can facilitate improved and more timely estate planning across generations of families. For example, including adult children in their ageing parents' SMSF could help when making administration and investment decisions for the fund.

The SMSFA notes the possibility that allowing larger SMSFs, especially where adult children are members of the same SMSF as their parents, could give rise to opportunities of elder abuse and complex estate planning disputes. However, even without larger SMSFs, these problems can occur for SMSFs with up to four members and can be often driven by non-members.

Including more members in an SMSF is not likely to have a real effect on fees because SMSF fees are typically charged on a fixed administration basis regardless of the number of members and without consideration to the balance of the superannuation account. Pooling superannuation balances in one SMSF can therefore avoid the costs of running separate SMSFs. Furthermore, if the pool of assets is increased in an SMSF through including more members, then the SMSF will become more cost-efficient as the fees reduce as a percentage of the total assets of the fund. Another benefit from this spreading of fees across members is that lower income earning members could potentially have lower fees than they would in APRA-regulated superannuation funds.

With regards to pooling superannuation balances, an increase in SMSF members means individuals can enjoy the benefits of consolidating assets, increased investment opportunities and flexibility to diversify.

Recently, the reduction in both the concessional and non-concessional caps have limited the ability for individuals to contribute money into their SMSF and facilitate large purchases. For example, investment in commercial properties that are the small business premises of the SMSF trustees and families are one of the most common strategies used in SMSFs. Pooling monies allows small business owners the opportunity to transfer their most significant business asset to their SMSF which increases their ability to save for retirement. This is particularly important for small business operators who do not have the ability to contribute as easily as other individuals as they tend to reinvest in their business rather than contribute to superannuation. Business real property in an SMSF provides certainty that rental income is paid, access to superannuation taxation benefits for many self-employed persons and more flexibility in ownership and succession planning.

Allowing small business owners to pool their balances together will be an added benefit of the increase in SMSF members. With the recent pull back in limited recourse borrowing arrangement offerings by large banks and a potential ban by the Australian Labor Party, this potentially becomes even more important.

However, we note it that it would be important for larger SMSFs with members that have different age profiles to ensure they have adequately considered that the fund has appropriate investment strategies for members with different investment needs. For example, a member in their mid-30s with 30 years of working and contributions ahead of them will have a higher risk tolerance and lower need for liquidity than a fund member in their mid-60s who is approaching retirement. SMSFs can have different investment strategies for different members, if members do not want to share the same investment strategy.

Including more members into an SMSF may also increase the taxable income of the SMSF (through contributions and earnings on assets in accumulation phase) and provide extra flexibility for franking credit to be used to offset tax liabilities rather than be paid as refunds. This would result in more consistent treatment with most large superannuation funds. However, this outcome highlights one of the inequities of any proposal to deny franking credit refunds.

ANY decision to add extra members to an SMSF should always be properly planned and accompanied by specialist SMSF advice to reduce any potential risks.

Currently, 93% of SMSFs have only one or two members, indicating that the potential movement to six member funds will not be substantial. Accordingly, we would not expect this law change to create substantial integrity issues for the SMSF sector as whole.

The SMSFA supports the drafting of the legislation including the sign off requirements for the SMSF's statements and accounts.

We believe this amendment should be regarded as a non-controversial change to the SMSF sector which promotes more choice and flexibility in the superannuation system and does not pose any significant integrity issues, especially if specialist SMSF advice is sought by consumers.

If you have any questions about our submission, please do not hesitate in contacting us.

Yours sincerely,

John Maroney
CEO
SMSF Association

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak professional body representing SMSF sector which is comprised of over 1.1 million SMSF members who have $727 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.