



9 February 2024

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

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Dear Senator Walsh,

**SMSF ASSOCIATION SUBMISSION – INQUIRY INTO THE SUPERANNUATION (OBJECTIVE) BILL 2023**

The SMSF Association thanks the Committee for the opportunity to provide our submission in response to this Inquiry. We support in principle the concept of a legislated objective of superannuation and welcome measures that seek to bring stability and certainty to superannuation policy.

*Sole Purpose Test*

The core purpose of superannuation is already addressed in the existing sole purpose test<sup>1</sup> and is an essential core component of the superannuation architecture. The sole purpose test is not a new concept, and its presence and operation substantially pre-dates the *Superannuation Industry (Supervision) Act 1993*. We acknowledge the important role that the sole purpose test plays in the application of superannuation compliance measures and taxation concessions.

The role of the sole purpose test, whilst of vital importance, must be clearly distinguished from an objective of superannuation. The latter is needed to provide a clear policy framework and guidance.

We are pleased to see the core and ancillary elements of the sole purpose test acknowledged in the proposed objective.

*Reduce complexity*

The current legislative and regulatory framework for superannuation is highly complex and a product of a proliferation of changes over time. Superannuation would benefit from simplification, a reduction in caps and thresholds and the removal of red tape, rather than persistent changes and increasing complexity.

The existing complexity already acts as a barrier for many individuals to engage with their superannuation savings. It also adds unnecessary cost into the system. Yet a need to consider simplicity, or to avoid complexity, is not considered in the proposed objective.

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<sup>1</sup> *Superannuation Industry (Supervision) 1993*, s 62.



Proposed amendments<sup>2</sup> are currently before the Parliament which propose significant changes to the taxation of superannuation, adding yet another cap into the existing plethora of caps and thresholds applicable to superannuation. It will also add significant complexity and cost to the administration and taxation of the superannuation system and introduce greater uncertainty for those affected. It will impact many more people over time than has been represented.

The timing of that Bill's presentation to the Parliament means that it is not subject to the requirements set out in this Bill.

It is an example of a policy that has been rushed, is ill considered, and is not simple despite the representations made to the alternative.

#### *Stability, consistency, and certainty*

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. 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>3</sup>*

The right framing of the objective of superannuation is therefore vital. It is essential in ensuring that it provides appropriate and necessary guiderails and a fit for purpose anchor for Government policy. It 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.

Superannuation is just one component of a broader retirement income system. The framing of the Retirement Income Review<sup>4</sup> and the final report highlights the importance of considering the broader policy impacts across the retirement system.<sup>5</sup> Indeed, the review recommended the introduction of an objective for the broader retirement income system.<sup>6</sup>

Superannuation policy must therefore be considered in the context of the overall retirement system, including the housing, personal investments, superannuation, age pension and related benefits, and aged care.

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<sup>2</sup> Treasury Laws Amendment (Better targeted Superannuation Concessions and Other Measures) Bill 2023 (Cth).

<sup>3</sup> *Financial System Inquiry* (Final Report, November 2014) 25.

<sup>4</sup> *Retirement Income Review* (Final Report, 24 July 2020) 1. Terms of reference.

<sup>5</sup> *Retirement Income Review* (Final Report, 24 July 2020) 23. The objective of the [retirement income] system lacks an agreed objective.

<sup>6</sup> *Retirement Income Review* (Final Report, 24 July 2020) 17. Key Observations – A clear objective for the system.



Clause 1.73 of the Explanatory Memorandum makes a reference to superannuation's role within the broader retirement income system. We would encourage future policy decisions to be reflected in the context of this statement. Considering superannuation policy in isolation risks poor policy outcomes.

#### *Modifications from the Exposure Draft*

We refer to the modifications made to the statements relating the delivery of income. These modifications are a fundamental shift away from the principled approach adopted in the exposure draft and unreasonably broadens the application of the objective.

Refer to the comparison table below.

#### **Deliver Income:**

<b>Exposure Draft – Explanatory Memorandum</b>	<b>Bill – Explanatory Memorandum</b>
1.36 The focus on delivering income in the objective makes it clear that superannuation savings are intended to be used in retirement.	1.28 The focus on delivering income in the objective makes it clear that superannuation is <b>not for minimising tax on wealth accumulation or enabling retirees to leave tax-effective bequests.</b>

All superannuants, regardless of the size of their balance, benefit from the concessional taxation treatment of their superannuation interests. Superannuation guarantee payments and the superannuation system together operate to accumulate wealth for the future. It is from that accumulated wealth the superannuation system provides income in retirement.

The associated tax concessional environment quite purposely compensates superannuation account holders for:

- The complex and strict compliance rules and regulations that apply.
- The strict limitations that apply to the amounts that can be contributed.
- The restrictions that apply to fund investments.
- The trade-off between current earnings and income needs and providing for future income needs in retirement.
- Operation of the preservation rules which strictly limit and restrict when a person may access their superannuation benefits.

The broad nature of this statement in the EM risks the introduction of substantive policy changes which could be counter to the underlying policy intent, damaging to the sector and community trust in superannuation. We acknowledge that rates of taxation may need to be reviewed from time to time. However, that is considered under the elements already set out under 'sustainability'.

It was disappointing to see the introduction of statements that perpetuate myths and introduce bias into the Objective explanatory materials. Superannuation is not always a tax-effective vehicle for the leaving of bequests. Tax-free death benefits are only available when paid to a surviving spouse or a minor child. A sound and well-established policy foundation underpins that treatment. Taxation applies to benefits paid to a non-dependant. Further, death benefits must be paid out of the superannuation system to limited classes of beneficiaries.



It should be noted that there are far more tax effective opportunities outside of the superannuation system. Being outside of that framework, the strict compliance obligations and restrictions that apply to superannuation will have no operative effect, making them far more attractive.

The explanatory memorandum will play an important role in the interpretation and application of the objective of superannuation. We would therefore welcome amendments that return the focus to retirement incomes and support the removal of clause 1.28 of the EM, replacing it with the original wording of clause 1.36 of the exposure draft.

#### *Statement of Compatibility*

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.

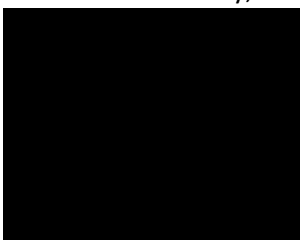
#### *Consultation Processes*

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 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.