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Secretary
Standing Committee on Economics
House of Representatives
PO Box 6021
Parliament House
Canberra ACT 2600
Australia

Email: economics.reps@aph.gov.au

Dear Secretary,

INQUIRY INTO THE TAX AND SUPERANNUATION LAWS AMENDMENT (2013 MEASURES NO. 2) BILL 2013

The Association of Superannuation Funds of Australia (ASFA) would like to provide this submission in relation to the inquiry into the *Tax and Superannuation Laws Amendment (2013 Measures No. 2) Bill 2013*.

ASFA's particular interest in this bill is with Schedule 5 - Merging multiple accounts in a superannuation entity and Schedule 6 - Government co-contribution for low income earners. We will restrict our comments to those parts of the bill.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

Schedule 5 - Merging multiple accounts in a superannuation entity

ASFA is supportive of the range of measures that the Government has introduced (and has plans to introduce) to reduce the number of unnecessary multiple accounts within the superannuation system.

As outlined in the explanatory material, the measure requires trustees of superannuation funds to have a procedure in place to determine on an annual basis whether a member has multiple accounts within the fund and, if so, the trustee must, where it is considered to be in the member's best interest, merge those accounts.

ASFA participated in consultations on two earlier drafts of the proposed provisions.

In the **first round of consultations** we were concerned that the proposed arrangements, which only targeted inactive accounts with balances of less than \$1,000, would result in too few accounts being consolidated.

In analysing the draft legislation and considering how the intra-fund consolidation rules should operate, we first considered what the desired end state should be. ASFA's view was that the goal should be to establish a process that achieves the following:

- Where a member has multiple accounts within a fund, those which are not deemed necessary to the member's superannuation requirements are consolidated into another account.
- The consolidation process should result in an outcome which is in the member's best interest.
- The member should retain the right to advise the trustee that certain accounts are not to be auto-consolidated, either within the fund or to another fund. This information should be captured and referred to in any consolidation process, be it an automated process or otherwise.

Importantly, ASFA considered that the auto-consolidation process should not be limited to inactive accounts as defined and that trustees needed to have a discretion not to consolidate accounts within a fund where to consolidate is deemed not to be in the member's best interest. This would overcome the need for a complex series of rules to deal with a range of fund specific situations.

In response to the **second round of consultations** on the exposure draft legislation ASFA noted the significant changes made and considered that the change to the approach of there being a higher level, principles-based trustee obligation, as opposed to a prescriptive requirement, would result in a better administrative process and would provide trustees with sufficient flexibility to significantly lessen the likelihood of a member being adversely affected by the account consolidation process.

However we had specific concerns that:

- There was no specific exclusion of defined benefit and pension interests.
- There was a lack of clarity as to the protection provided in the legislation for trustees who act in good faith in accordance with the legislation
- The commencement date of 1 January 2013 was too soon.

We also identified several parts of the Explanatory Statement where we felt consideration should be given to amending the wording. This included:

- Concerns with several of the examples
- Specific references to MySuper interests
- The raising of doubts as to whether or not member consent is required to consolidate.

The bill as presented to Parliament has addressed our concerns. Specifically, it:

- Excludes from the provisions defined benefit interests and income streams;
- Provides protection for trustees where the account is merged through the inclusion of the words 'if the trustee reasonably believes that it is in the best interests of the member to do so'; and
- Moves the commencement date to 1 July 2013 with the first annual consolidation process to be completed by 30 June 2014.

Additionally, the information and examples in the Explanatory Statement have been improved, providing greater clarity and certainty as to the operation of the law.

From ASFA's perspective, the only matter left unresolved is any requirement that the Australian Securities and Investments Commission (ASIC) may have in relation to the trustee being obliged to send significant event notification with respect to the merging of a member's accounts. ASFA intends seeking ASIC's advice on this.

Schedule 6 - Government co-contribution for low income earners

Schedule 6 to this Bill amends the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* by:

- reducing the maximum rate of payment for the superannuation co-contribution from 100 per cent to 50 per cent;
- decreasing the maximum amount payable from \$1,000 to \$500;
- extending the freeze on the indexation of the lower income threshold for the 2012-13 income year; and
- setting the higher income threshold at \$15,000 above the lower income threshold (down from \$30,000).

These changes were announced by the Government in the 2011-12 mid year economic financial outlook (MYEFO) statement.

Although any reduction to the co-contribution measure is less than desirable, this change should not be considered in isolation but in conjunction with the low income superannuation contribution (LISC) measure.

Under the LISC individuals with adjusted taxable incomes up to \$37,000 will benefit from a payment to their superannuation account of an amount equal to 15% of the concessional contributions paid in respect of the individual, representing the approximate amount of tax paid by superannuation funds in respect that member, up to a maximum of \$500 per individual each year.

The LISC compensates low income earners for the fact that the contribution tax paid from their superannuation account is levied at a rate higher than their effective marginal tax rate, which has the effect that, for these members, superannuation is not concessionally taxed but is actually taxed punitively.

As such, it is critical the LISC be retained in its current form.

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Yours sincerely



Pauline Vamos
Chief Executive Officer