

State and Territory Superannuation Funding Arrangements

State/Territory	Name of super fund manager	Date for full funding	How does the government make contributions to the fund?
New South Wales	Liability Management Fund (LMF)	2030	Government makes monthly contribution to the LMF. Contribution based on tri-annual actuarial assessment aimed at offsetting unfunded component of liability.
Queensland	QIC	Fully funded	Superannuation liability fully funded by government through employer contributions.
Victoria	Government Superannuation Office (GSO)	2035	Annual appropriation based on actuarial advice that is consistent with the aim of 100 per cent funding of the unfunded superannuation liabilities by 2035.
Western Australia	Government Employee Superannuation Board (GESB)	2025 (approx)	Standard appropriation each year to the GESB reflecting employer contributions and to meet unfunded component of two closed WA schemes. West State Super only open scheme but is fully funded.
South Australia	Funds S.A.	2034	Annual appropriation to Funds S.A. each year representing funding for unfunded component and employee contributions.
Northern Territory	Commissioner of Superannuation.	2060	All schemes unfunded, except for Parliamentary scheme. Liabilities for all unfunded schemes met with re-current revenue directly from the budget each year.
Tasmania	Retirement Benefits Fund	2018	Government makes employer contributions to the Fund. Additional contributions also made to offset unfunded component of liability.
Australian Capital Territory	Superannuation Provision Account (SPA)/Comsuper	90% funded by 2040	Standard appropriation from SPA each year in line with actuarial assessment of unfunded liability.

TREASURY

SENATE ECONOMICS LEGISLATION COMMITTEE QUESTION ON NOTICE

Senator Murray asked the Treasury, upon notice, for a response to the tax law argument presented by Mr Michael Potter from the Australian Chamber of Commerce and Industry on 9 February 2006:

... we might ask the question: shouldn't the Future Fund become taxable? The key argument used against the Future Fund being taxable is that it would be administratively complex, but the argument for the Future Fund being taxable is to introduce a neutrality between different investment types. If the Future Fund is not taxable, it has an incentive to invest in investments which are also not taxable. Specific examples would be share investments that do not pay franked dividends – in other words, the investments it is making are in companies that have not paid much tax – whereas if the Future Fund were taxable, there would be a neutral effect between investments that pay franked dividends and investments that do not pay franked dividends. Similarly, the same thing goes for overseas investments. If the Future Fund were taxable, it would be able to make use of foreign tax credits, whereas if the Future Fund were not taxable, it would not be able to make use of foreign tax credits. That would create a bias towards the Future Fund investing domestically over investing internationally.

Clause 30 of the Future Fund Bill provides that the Future Fund Board of Guardians will be exempt from Australian income tax and those state and territory taxes which do not apply to the Commonwealth. However, the Board will be subject to a notional fringe benefits tax and goods and services tax. These provisions will provide a tax status to the Board that is consistent with the general tax treatment of entities within the General Government Sector.

However, to address a potential bias against investments which have already been subject to tax (eg. franked dividends), clause 31 of the Bill says that the Board will be entitled to a refund of franking credits. This addresses a potential distortion that might otherwise have caused the Board to have a bias towards assets whose return had not been subject to income tax, such as assets that would provide unfranked dividends.

The nature and extent of the Board's foreign tax liability on income derived from overseas investments will depend on the foreign country's domestic tax system and, if Australia has a tax treaty with that country, the restrictions prescribed in the treaty. Many jurisdictions follow the international doctrine of sovereign immunity, which in effect results in certain types of Australian sovereign investment not being taxed in their country. The criteria for sovereign immunity differs between countries but some sovereign funds have received sovereign immunity tax exemptions in various countries. However, if the Board's investments are subject to foreign tax, the Board will not be entitled to an Australian refund of the foreign tax. This treatment is consistent with the general principle applying to other Australian entities that foreign tax credits are non-refundable.

SELECTION OF BOARD MEMBERS

During the recent debate, some Members and Senators have asked why the Future Fund Bill doesn't contain a requirement for Board members to be fit and proper, as is required under the *Superannuation Industry (Supervision) Act 1993*

Key Points

The Future Fund is not a superannuation fund, so simply picking up the same requirements as the SIS Act would be inappropriate.

The Future Fund Bill spells out the requirements of Board members for appointment. Subclause 38(3) says that:

- A person is not eligible for appointment as a Board member unless the responsible Ministers are satisfied that the person has:
- (a) substantial experience or expertise; and
 - (b) professional credibility and significant standing;
- in at least one of the following fields:
- (c) investing in financial assets;
 - (d) the management of investments in financial assets;
 - (e) corporate governance.

These requirements are broadly similar to those expected under the SIS Act, but reflect the particular circumstances and requirements associated with the Future Fund.

APRA's Guidance Note on the application of the fit and proper test (SGN 110.1) notes that the attributes expected of trustees include, but are not limited to "character, competence, diligence, experience, honesty, integrity and judgement".

- The Future Fund Bill's requirement for Board members to have "professional credibility and significant standing" can be seen as encompassing a similar principle to that required of superannuation trustees.

Unlike the fit and proper test, which allows trustees to meet the competency limb of the requirement collectively, under the Future Fund Bill, each board member must have "substantial experience or expertise" in areas relevant to the Future Fund's core business.