



FINANCIAL PLANNING
ASSOCIATION *of* AUSTRALIA

16 September 2016

Manager
Superannuation Tax Reform
Retirement Income Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Re. Superannuation reform package – First tranche

Dear Sir/Madam,

The Financial Planning Association of Australia (FPA) welcomes the opportunity to comment on the first tranche of draft legislation to enact measures announced in the 2016 Budget. We are generally pleased with the progress that is being made to finalise these reforms.

However, as previously stated, we are concerned with some aspects of the measures; in particular, the legislation enshrining the objective of superannuation. We believe that the superannuation system ought to aspire to more than merely substituting or supplementing the age pension.

If you have any queries or comments, please do not hesitate to contact me.

Yours sincerely

Dimitri Diamantes

Policy Manager

Financial Planning Association of Australia¹

¹ The Financial Planning Association (FPA) has more than 11,000 members and affiliates of whom 9,000 are practising financial planners and 5,500 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
 - In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of FOFA.
 - We have an independent conduct review panel, Chaired by Mark Vincent, dealing with investigations and complaints against our members for breaches of our professional rules.
 - The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 24 member countries and the 150,000 CFP practitioners that make up the FPSB globally.
 - We have built a curriculum with 17 Australian Universities for degrees in financial planning. As at the 1st July 2013 all new members of the FPA will be required to hold, as a minimum, an approved undergraduate degree.
 - CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
 - We are recognised as a professional body by the Tax Practitioners Board
-

SUPERANNUATION REFORM PACKAGE – FIRST TRANCHE

FPA submission to:
Treasury

16 September 2016

INTRODUCTION

The FPA has not identified any technical issues with the draft legislation. However, as previously stated, we are concerned with some aspects of the measures; in particular, the legislation enshrining the objective of superannuation. We believe that the superannuation system ought to aspire to more than merely substituting or supplementing the age pension.

Further, we are concerned that the subsidiary objectives of superannuation do not expressly provide for the building of trust and confidence in the system. We believe trust and confidence is needed to encourage people to voluntarily contribute to superannuation and, in turn, enhance their retirement outcomes.

We ask that these gaps be addressed in the final legislation and explanatory material.

A. Superannuation (Objective) Bill 2016

Overview

The FPA congratulates the Government on its progress towards enshrining in legislation the objective of superannuation. However, as discussed in our earlier submission to Treasury, we have three key concerns with the proposed framework:²

- the primary objective especially, sets a very low bar
- the framework fails to directly address the need to build trust and confidence in the superannuation system
- the legislation provides no mechanism for assessing its effectiveness in ensuring new legislation and regulations are appropriate in light of the stated objective of superannuation

Section 5 The primary objective of the superannuation system

The FPA agrees that provision of income is an important objective of the superannuation system. However, we believe the bar set in the draft legislation – providing income to substitute or supplement the age pension - is too low.

The FPA believes that having a comfortable standard of living in retirement, without the need to take excessive risk, helps give a person dignity and independence. This is why, as discussed in our submission for Treasury's initial consultation on the objective, we believe the primary objective of superannuation should be as follows:³

- to provide income and capital in retirement to provide a comfortable standard of living

We are also concerned that the subsidiary objectives of superannuation do not expressly provide for building trust and confidence in the superannuation system. We believe trust and confidence is needed to encourage people to voluntarily contribute to superannuation and, in turn, enhance their retirement outcomes.

As discussed in our submission for Treasury's initial consultation on the objectives, we believe the subsidiary objectives of superannuation should be as follows:⁴

- to provide superannuation benefits on the death of the member
- to facilitate consumption smoothing
- to help people manage financial risks in retirement
- to be invested in the best interests of superannuation fund members
- to build trust and confidence in the superannuation system
- to ensure the superannuation system is consistent and fair
- to be simple and efficient, and provide safeguards.

² FPA, *Consultation on the Objective of Superannuation*, http://fpa.com.au/wp-content/uploads/2016/04/16_04_06_FPA-Submission_on_Objective_of_Superannuation_FINAL.pdf

³ *Ibid.*

⁴ *Ibid.*

Section 6 Statements of compatibility—Bills relating to superannuation; and Section 7 Statements of compatibility—regulations relating to 8 superannuation

The FPA is concerned that the proposed provisions requiring that a statement of compatibility be prepared set too low a bar. Issues:

- merely requiring the preparation of a statement of a proposed law's compatibility with the objective of superannuation does not impose a requirement to ensure that that law is so compatible – s 6(3) and s 7(2) support this interpretation; and
- failure to meet the requirement does not affect the validity, operation or enforcement of the relevant law

We understand that there are challenges in Parliament regulating itself. Still, there are ways to discourage law that doesn't support the objectives of superannuation. For example, it should be required that the statement of compatibility provide reasons for the proposed law, that are based on the objective of superannuation.

Further issues

The FPA is concerned that there appears to be no mechanisms for monitoring and reporting compliance with the act. We recommend that the legislation enshrining the objective of superannuation also contain provisions requiring an independent body to periodically assess:

- whether members of Parliament and rule-makers are complying with that legislation
- new legislation and regulations against the objectives; and
- the whole superannuation system against the objectives

Assessment and monitoring could, for example, be undertaken by one or more of the following:

- Productivity Commission
- Parliamentary Budget Office
- public consultation through Senate Economics Committee or Parliamentary Joint Committee

B. Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016

Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulation 2016

Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulation 2016; Low income superannuation tax offset

Deducting personal contributions

The FPA has no concerns with these provisions.

Tax offsets for spouse contributions

The FPA has no concerns with these provisions.

Low income superannuation tax offset

The FPA has no concerns with these provisions.